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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

REGGIE ANTHONY CONTRERAZ,

Defendant and Appellant.

2d Crim. No. B258888
(Super. Ct. No. 2013030103)
(Ventura County)

Reggie Anthony Contreras appeals a judgment of conviction entered after he waived his right to a preliminary examination and his constitutional rights and pleaded guilty to eluding a pursuing police officer (count 1), and transportation of cocaine (count 3), with admissions that he suffered a prior narcotics conviction and served a prior prison term. (Veh. Code, § 2800.4; Health & Saf. Code, §§ 11352, subd. (a), 11370.2, subd. (a); Pen. Code, § 667.5, subd. (b).) The trial court granted a certificate of probable cause regarding counsel's failure to bring a motion to suppress evidence. (Pen. Code, § 1237.5, 1538.5, subd. (a).)

We appointed counsel to represent Contreras in this appeal. After examination of the record, counsel filed an opening brief raising no issues. (*People v. Wende* (1979) 25 Cal.3d 436, 441.) On November 21, 2014, we advised Contreras that he had 30 days within which to personally submit any contentions or issues that he wished to raise on appeal. On December 8, 2014, we received a response from him contending that

that he received the ineffective assistance of counsel because his attorney did not bring a motion to suppress evidence. (*In re Brown* (1973) 9 Cal.3d 679, 683, overruled in part by *People v. Mendez* (1999) 19 Cal.4th 1084, 1093 [certificate of probable cause permits review of claim of ineffective assistance of counsel].) Pursuant to *People v. Kelly* (2006) 40 Cal.4th 106, 123-124, we present a factual and procedural summary of the case and a brief discussion of Contreras's contention.

FACTUAL AND PROCEDURAL HISTORY

In the afternoon of September 27, 2013, an off-duty Ventura sheriff's deputy observed Contreras driving his motorcycle erratically at an unsafe speed. The deputy notified another deputy who arrived in a marked vehicle. When the second deputy observed Contreras make an illegal left turn, he activated his lights and siren to initiate a traffic stop. In response, Contreras accelerated, made illegal turns, weaved between vehicles, and drove through red traffic signals. A pursuit ensued until Contreras collided with a parked vehicle.

Deputies subdued Contreras and found a loaded handgun, a digital scale, 4.7 grams of marijuana, 8.24 grams of methamphetamine, and .71 grams of cocaine on his person. A search of the motorcycle revealed 97 grams of marijuana. The officers looked through Contreras's cellular telephone and found messages suggesting drug sales.

On October 1, 2013, the prosecutor filed a felony complaint charging Contreras with eluding a police officer, possession of a firearm by a felon, transportation of cocaine, transportation of methamphetamine, possession of cocaine with a firearm, possession of methamphetamine with a firearm, and transportation of marijuana. (Veh. Code, § 2800.4; Pen. Code, § 29800, subd. (a)(1); Health & Saf. Code, §§ 11352, subd. (a), 11379, subd. (a), 11370.1, subd. (a), 11360, subd. (a).) The prosecutor also alleged that Contreras had a prior narcotics conviction and served two prior prison terms. (Health & Saf. Code, § 11370.2, subd. (a); Pen. Code, § 667.5, subd. (b).)

On June 4, 2014, Contreras waived his right to a preliminary examination and his constitutional rights and pleaded guilty to eluding a pursuing police officer (count 1), and transportation of cocaine (count 3), with admissions that he suffered a prior

narcotics conviction and served a prior prison term. (Veh. Code, § 2800.4; Health & Saf. Code, §§ 11352, subd. (a), 11370.2, subd. (a); Pen. Code, § 667.5, subd. (b).) Contreras waived his rights orally and in writing and also acknowledged that a maximum sentence would be 10 years 4 months.

Pursuant to a plea agreement, the trial court sentenced Contreras to eight years eight months imprisonment, imposed a \$ 300 restitution fine, a \$300 parole revocation restitution fine (stayed), an \$80 court security fee, and a \$60 criminal conviction fee, and awarded Contreras 600 days of presentence custody and conduct credit. (Pen. Code, §§ 1202.4, subd. (b), 1202.45, 1465.8, subd. (a); Gov. Code, § 70373.) The court then dismissed the remaining charges.

DISCUSSION

When examining an ineffective assistance of counsel claim, a reviewing court defers to counsel's reasonable tactical decisions. (*People v. Mai* (2013) 57 Cal.4th 986, 1194.) However, counsel is not ineffective for failing to make frivolous or futile motions. (*People v. Thompson* (2010) 49 Cal.4th 79, 122.) Based upon the factual summary of Contreras's offenses set forth in the probation report, a motion to suppress evidence of the firearm and drugs here is without merit.

Contreras expressly agreed that the trial court could consider the police report of the incident and the probation report as proof of the factual basis for his pleas and admissions. His guilty plea and admissions admitted every element of the crimes and allegations charged. (*People v. Wallace* (2004) 33 Cal.4th 738, 749.)

The judgment is affirmed.

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GILBERT, P.J.

We concur:

YEGAN, J.

PERREN, J.

Patricia Murphy, Judge
Superior Court County of Ventura

Richard B. Lennon, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.