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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

HECTOR MORALES,

Defendant and Appellant.

B275350

(Los Angeles County
Super. Ct. No. LA077953)

APPEAL from judgment of the Superior Court of Los Angeles County. Lynne M. Hobbs, Judge. Affirmed.

Laurie Wilmore, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Hector Morales appeals the judgment entered following a contested violation of probation proceeding. The trial court found Morales to be in violation of probation for committing an act of vandalism and failing to complete a residential drug treatment program.

Morales appealed the judgment, and we appointed counsel to represent him on appeal. After examination of the record, counsel filed an opening brief raising no issues and asking this court to independently review the record. Morales did not file any supplemental brief of his own.

PROCEDURAL BACKGROUND

An information filed on June 26, 2014, charged Morales in count 1 with possession of methamphetamine (Health & Saf. Code, § 11377, subd. (a)) and in count 2 with possession of concentrated cannabis (Health & Saf. Code, § 11357, subd. (a)). The information further alleged one prior strike conviction under the Three Strikes law (Pen. Code,¹ §§ 667, subds. (b)–(j), 1170.12, subd. (b)) and one prior prison term (§ 667.5, subd. (b)).

On August 7, 2014, Morales entered a plea of no contest to count 2, and the court dismissed count 1 and the remaining allegations. Selecting the upper term, the trial court sentenced him to three years in prison. The court suspended execution of the sentence and placed Morales on three years formal probation with standard terms and conditions. The court further ordered Morales to serve 365 days in a residential drug treatment program, with a minimum of 180 days residential and the

¹ Undesignated statutory references are to the Penal Code.

remainder residential or outpatient at the discretion of the program.

On December 9, 2014, the trial court granted Morales's petition pursuant to Proposition 47, and reduced the felony drug conviction to a misdemeanor. The court converted Morales's probation to summary probation. At the Proposition 47 hearing, the court inquired about Morales's progress in the drug treatment program. Morales informed the court that he had a letter from the program, he was doing very well, and he would be graduating on December 20, 2014.

On April 7, 2016, Morales was charged with violating the terms of his probation by committing a new offense and failing to show proof of completion of the residential drug treatment program. The court held a contested probation violation hearing on May 3, 2016.

FACTUAL BACKGROUND

Around midnight on the night of June 24, 2015, Emerson Ortiz returned home from walking his dogs to find Morales sitting in his truck in front of Ortiz's house yelling at Brenda Ginche, Ortiz's roommate. Ortiz and Morales were not on friendly terms because Morales was often aggressive with Ginche. Ortiz went into the house and returned to the truck with pepper spray. As Morales started to exit the vehicle, Ortiz reached through the open passenger window and sprayed Morales with the pepper spray. Morales sped away; Ortiz and Ginche called the police.

Later that night around 1:20 a.m., Ortiz heard the sound of a truck outside and got up to find his roommate, frightened and shaking, looking out the window. Ortiz and Ginche went out to the side yard of the house and saw Morales park his truck at the corner. Morales got out of the truck and started walking toward

Ortiz's house. Believing Morales to be coming back to his house, Ortiz called the police. But instead of going to Ortiz's house, Morales smashed the passenger window of Ortiz's car with a metal bar. Morales raised the bar over his head, returned to his truck, and drove away. Ortiz reported the incident to police.

Carlos Cordoba was at work at a 24-hour tire service shop shortly after midnight on June 25, 2015, when a truck driven by Morales pulled into the parking lot. Morales emerged from the truck asking for help—he had been pepper-sprayed and could not see. Cordoba and his boss flushed Morales's eyes with water and poured milk on his face. Around 1:30 or 2:00 a.m., Cordoba drove Morales home in Morales's truck while Cordoba's boss followed in the company van. Cordoba returned to the shop around 2:30 a.m.

Morales's mother testified that she opened the door for her son when he came home sometime between 1:30 and 2:00 a.m. As she opened the door she saw Cordoba going down the stairs. Morales went into the apartment and applied wet towels to his face. At 5:00 a.m. Morales's mother checked on him before going to bed and found him asleep on the couch. He was still there when she got up at 8:30 a.m.

* * *

The prosecution argued that Morales had unlawfully tampered with a vehicle in violation of Vehicle Code section 10852 and brandished a weapon in violation of Penal Code section 417, subdivision (a)(1). The prosecutor further noted that there was nothing in the court file to indicate that Morales had completed the residential drug treatment program. Morales countered that he had submitted proof of near-completion of the program in December 2014 when the court granted his Proposition 47 petition.

The trial court found Morales in violation of his probation for failing to complete his drug program and vandalizing the car. Morales agreed to pay the \$80 cost to repair the car window.

At sentencing the trial court formally revoked and reinstated probation, and ordered Morales to serve 150 days in county jail, with probation to terminate thereafter. (§ 1203.) Morales received 20 days custody credits, consisting of 10 days actual and 10 days of conduct credit.

DISCUSSION

We have examined the entire record and are satisfied that defendant's attorney has fully complied with her responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109–110; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

DISPOSITION

The judgment is affirmed.

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LUI, J.

We concur:

ROTHSCHILD, P. J.

JOHNSON, J.