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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE, Plaintiff and Respondent, v. BRITTANY GRANT, Defendant and Appellant.	B256679 (Los Angeles County Super. Ct. No. BA 419759)

APPEAL from a judgment of the Superior Court of Los Angeles County, Carol H. Rehm, Jr., Judge. Affirmed.

Cynthia A. Grimm, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Margaret E. Maxwell and Thomas C. Hsieh, Deputy Attorneys General, for Plaintiff and Respondent.

INTRODUCTION

Defendant Brittany Grant was convicted by a jury of one count of possession of methamphetamine. (Health & Saf. Code, § 11377, subd. (a).) She contends the trial court erred in partially denying her motion under *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 (*Pitchess*) seeking discovery of relevant evidence from the personnel files of the police officers involved in her arrest and the search of her belongings. With respect to the portion of the *Pitchess* motion that the trial court granted, Grant requests that we conduct an independent review of the transcript of the trial court's in camera proceeding. After independent review, we find no error in the court's ruling denying discovery as to Officer Moss and no error in the court's review of the personnel files of Officers Wollin and Peralez. The judgment is therefore affirmed.

FACTUAL AND PROCEDURAL SUMMARY

A. Procedural Background

In an information filed on February 13, 2014, Grant was charged with one count of possession of a controlled substance, methamphetamine (Health & Saf. Code, § 11377, subd. (a).) She entered a plea of not guilty.

Grant filed a *Pitchess* motion for pretrial discovery as to six Los Angeles Police Department (LAPD) officers and one sergeant. On April 3, 2014, following oral argument, the court granted Grant's motion only as to Officer Wollin. During its in camera *Pitchess* hearing, the court found there was no discoverable information as to Officer Wollin. In addition, although it had not granted the *Pitchess* motion as to a second officer, Officer Peralez, the court nevertheless reviewed her materials and concluded that there was no discoverable information therein.

Following a jury trial, Grant was found guilty of possession of methamphetamine. On May 29, 2014, the court ordered the imposition of Grant's sentence suspended, placed her on formal probation for one year, and ordered her to pay various fines and fees. Grant timely appealed.

B. Factual Background

According to the arrest report prepared by Officer Wollin, Grant called the police on December 26, 2013 at about 11:42 a.m., reporting a roommate dispute. LAPD Officers Wollin and Montes De Oca responded to a private residence and encountered Grant outside. She was "immediately uncooperative." Grant claimed that she lived in the townhouse apartment and needed help retrieving her property from inside.[1] She stated that her wallet and identification were in the residence as proof that she had been inside earlier that morning.

The officers spoke to the apartment's resident, Kitika Ross, who stated that Grant did not live there but was dating Ross's cousin. They did not find any additional property belonging to Grant in the apartment and reported that Grant's wallet and identification were found in her "brown satchel bag that she was carrying with her for the duration of the incident." Because Grant could not establish residency at the apartment, the officers asked her to leave with her bags. Grant refused to leave "multiple times." Officers Moss and Afful, along with their supervisor, Sergeant Porter, arrived after officers Wollin and Montes De Oca called for backup. Ross signed a private person's arrest form for trespassing, and the officers warned Grant that if she did not leave she would be arrested. When Grant refused to leave and "continued to be uncooperative," she was placed under arrest by Officers Wollin, Montes De Oca, Moss, and Afful. After the officers requested assistance from a female officer, Officer Martinez responded, and found bottles containing marijuana in Grant's pants pocket during a pat down search incident to arrest.

Officers Moss and Afful took custody of Grant's personal property and transported it to the station for booking. While searching Grant's property at the police station, Officer Moss discovered a glass pipe containing residue of a substance resembling methamphetamine inside "the main compartment of [Grant's] brown satchel bag." Officer Peralez conducted the strip search of Grant prior to booking at the Metropolitan Detention Center. From the inside of Grant's left shoe, under the sole

[1] At trial, Grant testified that she lived at the apartment from October until December 26, 2013 and paid rent to the owner.

insert, Officer Peralez retrieved a plastic bag containing a substance later revealed to be 0.21 grams of methamphetamine.

C. Pitchess Proceedings

Grant filed her *Pitchess* motion on March 13, 2014, seeking discovery from the personnel files of Officers Montes De Oca, Wollin, Moss, Afful, Martinez, and Peralez, as well as Sergeant Porter. Specifically, Grant requested disclosure of all complaints against these officers relating to a broad range of categories, including "acts of aggressive behavior, violence, excessive force," "bias" based on race, gender, ethnicity, or sexual orientation, "coercive conduct, . . . fabrication of charges, fabrication of evidence, fabrication of reasonable suspicion and/or probable cause, illegal search/seizure, false arrest, perjury, dishonesty, writing of false police reports," and "planting of evidence."

Grant's counsel filed a declaration in support of her motion, alleging that the officers falsified their arrest report and that Grant was not "uncooperative." Grant claimed she was living in the apartment on the morning of the incident and had gotten into an argument with her roommate, Ross. After Grant stepped outside, Ross locked the door and refused to allow Grant to reenter. Grant called the police for assistance and, while she waited, Ross and Ross's cousin began "dumping [Grant's] property into the front yard." Grant denied possessing any methamphetamine. She claimed she was not carrying a brown satchel during the incident and was not wearing shoes; instead, she was "given the shoes by officers at the scene" as she was being placed in the police vehicle. Grant admitted to possession of marijuana but stated that she had a valid medical prescription for its use. Counsel thus alleged that the officers "falsified their report, fabricated and/or planted evidence in order to have the defendant improperly charged for felony drug possession."

At the hearing on the motion, defense counsel focused on Officer Wollin, who authored the arrest report and stated (allegedly falsely) that he had seen Grant carrying the brown satchel; Officer Moss, who found the pipe in the same satchel; and Officer Peralez, who found the methamphetamine in Grant's shoe. The court then asked him whether he was "claiming that Officer Perale[z] is not telling the truth, or is it that the

folks who . . . purportedly saw your client with the bag are the ones being--," to which defense counsel responded "I think all of the above." The court asked counsel to articulate a plausible factual scenario as to Officer Peralez's conduct, asking, "[s]he just decided that morning to put drugs in a shoe?" Counsel responded that the amount of methamphetamine contained in the pipe was de minimis and might not have met the level required for a charge against Grant. Thus, "the officers could very easily have coordinated with each other in relation to ensuring a suitable quantity for filing was found on Ms. Grant."

The trial court granted the motion as to Officer Wollin, limited to "false statements and allegations of perjury" or false reporting. The court denied the motion as to the remaining officers.

The court then reviewed the personnel records of Officer Wollin during an in camera proceeding. The court concluded there was no discoverable information. Additionally, the LAPD records custodian provided records from the file of Officer Peralez. Although the court had not ordered Officer Peralez's records to be produced, the court reviewed her records and determined there was no discoverable information.

DISCUSSION

A. Review of Pitchess Hearing Regarding Officers Wollin and Peralez

At Grant's unopposed request, we have independently reviewed the transcript of the trial court's in camera *Pitchess* hearing to determine whether the required procedure was followed. (See *People v. Hughes* (2002) 27 Cal.4th 287, 330; *People v. Mooc* (2001) 26 Cal.4th 1216, 1229-1232.) The sealed hearing transcript reflects the court's record of its review of the contents of the files presented for both Officer Wollin and Officer Peralez. We conclude that the trial court did not abuse its discretion in finding that Grant was not entitled to discover any of the documents contained in the files of either officer.

B. Denial of Pitchess Motion As To Officer Moss

Grant argues that the trial court erred in denying her *Pitchess* motion with respect to complaints about Officer Moss.[2] We disagree.

We review a trial court's denial of a *Pitchess* motion for abuse of discretion. (*Alford v. Superior Court* (2003) 29 Cal.4th 1033, 1039.) "A criminal defendant, on a showing of good cause, is entitled to discovery of information in the confidential personnel records of a peace officer when that information is relevant to defend against a criminal charge." (*People v. Gaines* (2009) 46 Cal.4th 172, 176 (citing Pen. Code, § 832.7; Evid. Code, § 1043 et seq.; *Pitchess, supra*, 11 Cal.3d 531).) A defendant demonstrates good cause by filing a motion supported by affidavits showing both "'materiality' to the subject matter of the pending litigation and a 'reasonable belief' that the agency has the type of information sought." (*City of Santa Cruz v. Municipal Court* (1989) 49 Cal.3d 74, 84.) A showing of good cause is measured by "relatively relaxed standards" that serve to "insure the production for inspection of all potentially relevant documents." (*Ibid.*) It is sufficient for defendant's supporting affidavits to be based on information and belief; thus, a declaration by the defendant's lawyer may be sufficient. (*Brant v. Superior Court* (2003) 108 Cal.App.4th 100, 105 (citations omitted).)

In order to show that the information sought is material to the litigation, a defendant must both establish "a logical link between the defense proposed and the pending charge," and also "articulate how the discovery being sought would support such a defense or how it would impeach the officer's version of events." (*Warrick v. Superior Court* (2005) 35 Cal.4th 1011, 1021 (*Warrick*).) A defendant must present "a specific factual scenario of officer misconduct that is plausible when read in light of the pertinent documents" but "need not [] provide a motive for the alleged officer misconduct." (*Id.* at p. 1025 (citations omitted).) Thus, claims that an officer lied about the basis for a defendant's arrest or fabricated evidence are often sufficient grounds for *Pitchess*

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[2] Grant, who does not have access to the sealed *Pitchess* transcript, also argues that the trial court erred in refusing to review the records for Officer Peralez. Because the trial court in fact reviewed these records, this issue is moot.

discovery where relevant to a defendant's defense. (See, e.g., *People v. Hustead* (1999) 74 Cal.App.4th 410, 416-417 [defendant charged with evasion arising from motor vehicle pursuit entitled to discovery related to dishonesty where defendant claimed officer fabricated report of defendant's dangerous driving]; *People v. Gill* (1997) 60 Cal.App.4th 74, 750 [defendant charged with possession of cocaine could discover complaints against officer related to use of force, where defendant claimed officer planted the drugs "to cover up for his use of excessive force"].)

Here, Grant's motion largely focuses on Officers Peralez and Wollin and fails to articulate any connection between alleged misconduct by Officer Moss and her defense in this case. She does not link Officer Moss to any misstatements—he did not author the police report, nor did he make any of the statements contained in the report that Grant alleges are false, such as that she was uncooperative, that she was wearing shoes or that she was carrying her brown satchel. Further, the possession charge was based *only* on the methamphetamine found in Grant's shoe, not in the pipe; indeed, Grant's theory regarding why the officers planted the drugs in her shoe is premised on the idea that the amount in the pipe was insufficient to trigger a felony charge. Thus, Officer Moss's alleged dishonesty regarding discovery of the pipe in her bag is not supportive of her proposed defense. Moreover, Grant does not allege that Officer Moss planted the pipe, and her proposed factual scenario of officer misconduct suggests only that the drugs were planted in her shoe as a result of finding insufficient quantities of methamphetamine in the pipe. As such, we conclude that the trial court did not abuse its discretion in finding that Grant failed to establish good cause for *Pitchess* discovery as to Officer Moss.

DISPOSITION

We find no error in the court's ruling on the *Pitchess* motion or its review of the records. The judgment is therefore affirmed.

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COLLINS, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.