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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.

DAWIT W. DEDELA,

Defendant and Appellant.

B282522

(Los Angeles County
Super. Ct. No. 7PH01200)

APPEAL from an order of the Superior Court of Los Angeles County, Jacqueline H. Lewis, Judge. Affirmed.

Heather E. Shallenberger, under appointment by the Court of Appeal; and Dawit W. Dedela, in pro. per., for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On February 18, 2016, appellant Dawit W. Dedela was released on parole supervision for a period of three years.¹ In addition to the standard provisions prohibiting him from engaging in any conduct prohibited by law and requiring that he inform his parole agent if he was arrested for any crime, the parole conditions forbade appellant from using or possessing drugs and alcohol or possessing drug paraphernalia. On April 7, 2017, the Division of Adult Parole Operations filed a petition for revocation, alleging appellant violated the terms and conditions of parole by engaging in the crime of forgery, and by possessing paraphernalia and a controlled substance.

At the parole revocation hearing, Deputy Mason DeMatteo testified that on April 1, 2017, he and his partner approached appellant after observing him throw a beer can on the ground. Appellant was holding a cup that appeared to contain beer, and was detained for drinking in public. Appellant provided identification and handed the deputies a wallet. He admitted he was on parole. The deputies searched the wallet and found a glass pipe containing a residue that appeared to be methamphetamine, a plastic bag containing a powdery substance that resembled cocaine, and a Social Security card in the name “Alberto Sanchez.”² The card looked inauthentic. Appellant said the substance was cocaine he had purchased “on the street,” and that the card

¹ Appellant’s most recent conviction was in 2014, for criminal threats (Pen. Code, § 422, subd. (a).)

² The substance tested positive for methamphetamine.

belonged to his girlfriend's father. Appellant testified at the hearing and denied that the wallet or its contents were his. He claimed the wallet was inside a plastic bag when the deputies approached, and that the bag and wallet belonged to a woman who had gone into a nearby convenience store.

Stating that it found appellant's testimony not credible, the court found by a preponderance of the evidence that appellant violated the terms and conditions of his parole supervision by being in possession of drug paraphernalia and methamphetamine.³ The court revoked and restored parole on the same terms and conditions, and sentenced appellant to 180 days in county jail. The court awarded a total of 28 days credit, 14 actual and 14 good time/work.

Appellant filed a notice of appeal. After reviewing the record, appellant's court-appointed counsel filed an opening brief requesting this court to independently review the record pursuant to the holding of *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). On September 28, 2017, we sent a letter to appellant's last known address, advising him that he had 30 days within which to submit by brief or letter any contentions or argument he wished this court to consider. Appellant filed a letter brief contending there was insufficient evidence to support the court's findings.

This court has examined the entire record, and is satisfied no arguable issues exist. A trial court may revoke parole when it has reason to believe the person under

³ The court found the forgery allegation insufficiently supported.

supervision has “committed another offense or otherwise has violated the terms of supervision.” (*People v. Buell* (2017) 16 Cal.App.5th 682, 687.) The prosecution must prove the grounds for revocation by a preponderance of the evidence. (*Ibid.*) Findings of fact made under that standard are reviewed for substantial evidence. (*Ibid.*; *People v. Superior Court (Jones)* (1998) 18 Cal.4th 667, 681.) On review for substantial evidence, “we must view the evidence in the light most favorable to the People and must presume in support of the judgment the existence of every fact the trier could reasonably deduce from the evidence. [Citation.]” (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206 (*Ochoa*).)

Appellant contends insufficient evidence supported the finding regarding the nature of the substance found in the plastic bag and pipe because the lab report was admitted without sufficient foundation. We need not resolve this issue because the trial court could also rely on appellant’s statement to the deputies that the substance was an illegal narcotic purchased “on the street.” Moreover, appellant’s possession of paraphernalia on its own was sufficient to support the order revoking parole.

Appellant contends the court’s decision to believe the deputy’s testimony rather than his was arbitrary. “[I]t is the exclusive province of the trial judge . . . to determine the credibility of a witness and the truth or falsity of the facts on which [its] determination depends. [Citation.]” (*People v. Ochoa, supra*, 6 Cal.4th at p. 1206.) A trial court determines whom to believe based on “the precise words and demeanor”

of the witnesses during direct and cross-examination. (*Denny H. v. Superior Court* (2005) 131 Cal.App.4th 1501, 1513-1514.) “[U]nless the testimony is physically impossible or inherently improbable, testimony of a single witness is sufficient to support a conviction.” (*People v. Young* (2005) 34 Cal.4th 1149, 1181.) An appellate court cannot substitute a different determination of the facts for that of the trial court unless the testimony on which the court relied ““is so inherently improbable and impossible of belief as in effect to constitute no evidence at all.”” (*People v. Maxwell* (1979) 94 Cal.App.3d 562, 577.) Here, the court relied on the testimony of Deputy DeMatteo that appellant handed him and his partner a wallet when asked for identification and admitted that the narcotic substance found inside was his. As its findings were supported by substantial evidence, we must defer to the trial court’s determination of the facts.

Appellant has, by virtue of counsel’s compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the order revoking his parole. (*Smith v. Robbins* (2000) 528 U.S. 259, 278.)

DISPOSITION

The order finding appellant in violation of parole and sentencing him to 180 days in custody is affirmed.

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MANELLA, J.

We concur:

EPSTEIN, P. J.

COLLINS, J.