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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMALL DEJUAN
MATTHEWS,

Defendant and Appellant.

B275398

(Los Angeles County
Super. Ct. No. MA064958)

APPEAL from a judgment of the Superior Court of Los Angeles County, Joel L. Lofton, Judge. Affirmed in part; reversed in part.

Jared G. Coleman, 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, Scott A. Taryle and Nicholas J. Webster, Deputy Attorneys General, for Plaintiff and Respondent.

Defendant Jamall Dejuan Matthews suffered multiple convictions, only one of which is challenged on appeal. Defendant challenges the sufficiency of the evidence to support his conviction for false compartment activity, relating to a space in his vehicle where he stored controlled substances and a firearm. Following *People v. Arias* (2008) 45 Cal.4th 169 (*Arias*), we find no substantial evidence supported the conviction for false compartment activity and reverse that conviction. In all other respects, we affirm the judgment.

BACKGROUND

Deputy sheriffs stopped defendant's vehicle on December 4, 2014, and December 16, 2014. Both times, defendant was the only occupant in the vehicle.

After the first stop, Deputy Sheriff Arnold Camacho noticed that a piece on the driver's door "was loose and appeared to be modified slightly or just loose and out of place." Inside, he found crack cocaine, a loaded firearm, and 100 pills. A torn plastic bag was found in the center console area and \$535 was recovered from defendant. The cocaine contained about 500 doses. Defendant was arrested and released on bail.

On December 16, 2014, defendant was stopped again and Deputy Camacho found a plastic baggie containing 14 and one-half pills in the "driver's-side door panel." The deputy sheriff "could see it [(the door panel)] was loose again from the bottom of the door." Once pulled, the plastic baggie containing the pills fell to the ground. The pills later were determined to be Vicodin, a prescription medication often sold illegally.

For events occurring December 4, 2014, defendant was convicted of two counts of sale/transportation of a controlled substance (Health & Saf. Code, § 11352, subd. (a)), both with a

firearm within the meaning of Penal Code section 12022, subdivision (c). Jurors further convicted defendant of one count of false compartment activity (Health & Saf. Code, § 11366.8, subd. (a)) and possession of a firearm by a felon (Pen. Code, § 29800, subd. (a)(1)). For the events on December 16, jurors found defendant guilty of one count of transporting a controlled substance for sale and further found that defendant was on bail within the meaning of Penal Code section 12022.1. The court found that defendant suffered a prior strike conviction.

The court sentenced defendant to 15 years for count 1 (transportation of a controlled substance with a firearm enhancement).

The court found that Penal Code section 654 did not apply to the remaining convictions arising out of conduct on December 4 because “all the committed crimes are independent of each other.” The court imposed concurrent sentences on those counts. The court imposed a consecutive four-year, eight-month sentence for the transportation for sale occurring on December 16.

DISCUSSION

As we shall explain, defendant persuasively argues that no substantial evidence supported the conviction for false compartment activity. “In reviewing a criminal conviction challenged as lacking evidentiary support, “ ‘the court must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence—that is, evidence which is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.’ [Citation.]” [Citation.] [Citations.] ‘An appellate court must accept logical

inferences that the jury might have drawn from the evidence even if the court would have concluded otherwise.’” (*People v. Halvorsen* (2007) 42 Cal.4th 379, 419.)

Health and Safety Code section 11366.8, subdivision (a) provides: “Every person who possesses, uses, or controls a false compartment with the intent to store, conceal, smuggle, or transport a controlled substance within the false compartment shall be punished by imprisonment in a county jail for a term of imprisonment not to exceed one year or pursuant to subdivision (h) of Section 1170 of the Penal Code.” Included in the definition of false compartment is “[o]riginal factory equipment of a vehicle that has been modified, altered, or changed.” (Health & Saf. Code, § 11366.8, subd. (d)(2).)

Jurors were instructed that “[t]he defendant is charged in Count 3 with using a false compartment with the intent to conceal a controlled substance in a vehicle in violation of Health and Safety Code section 11366.8. [¶] To prove that the defendant is guilty of this crime, the People must prove that: [¶] The defendant used a false compartment with the intent to conceal a controlled substance in the false compartment in a vehicle. [¶] A *false compartment* is any box, container, space, or enclosure intended or designed to conceal any controlled substance within or attached to a vehicle. A false compartment may be original factory equipment of a vehicle that is modified.”

In *Arias, supra*, 45 Cal.4th at page 181, our high court held that a “‘false compartment’” must be “something more than the existing compartments or original factory equipment in a vehicle.” Stated otherwise, false compartments cannot be “factory-created compartments or original factory equipment.” (*Id.* at p. 182.) The high court noted that the “legislative history

reveals the legislative intent to punish the individual who manufactures false compartments or uses false compartments that are fabricated by someone other than the manufacturer of the original vehicle equipment.” (*Id.* at p. 183.)

In *Arias*, the following evidence was held insufficient to support a conviction for use of a false compartment: An officer saw drugs “stuffed between the steering column and adjacent wiring behind part of the dashboard and [the officer] easily removed that ‘loose’ dashboard panel because it clipped in and out to facilitate access to the electrical circuitry in that area.” (*Arias, supra*, 45 Cal.4th at p. 183.) The high court emphasized that the “prosecutor never asked the officer whether he tried to determine whether this space, or any other part of the Lexus, was standard in that model or whether it had been modified, altered, or changed in any way in order to prevent the discovery of controlled substances.” (*Ibid.*) Because there was no evidence of “an aftermarket modification of, or alteration to, the original factory equipment of the vehicle,” the high court reversed the defendant’s conviction. (*Id.* at p. 184.)

There is no meaningful distinction between this case and *Arias*. Just as in *Arias*, there was no evidence of “an aftermarket modification of, or alteration to, the original factory equipment of the vehicle.” (*Arias, supra*, 45 Cal.4th at p. 184.) Deputy Camacho testified that the compartment may have resulted from a “loose” piece in the door panel. While Deputy Camacho stated that the door panel could have been “modified slightly” he never testified that it was modified. Instead, according to him it may have simply been “loose and out of place.” Pictures shown to jurors indicate that the contraband was placed under the window control panel, but fail to elucidate whether the space had been

modified, altered, or changed in any way. No other evidence showed that the door compartment was modified from the original factory equipment. Although respondent points out that “[t]he intent to modify original factory equipment to create a false compartment is part of the crime’s proscribed conduct,” respondent cites no evidence showing that defendant modified the original factory equipment. Because the evidence did not support the conclusion that defendant fabricated, modified or altered a compartment, defendant’s conviction for false compartment activity must be reversed.¹ (*Arias, supra*, 45 Cal.4th at p. 184.)

DISPOSITION

The judgment of conviction for false compartment activity is reversed. In all other respects the judgment is affirmed. The case is remanded for resentencing.

FLIER, J.

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.

¹ Because we conclude that no substantial evidence supported the false compartment conviction we need not consider defendant’s argument that under Penal Code section 654 his conviction for false compartment activity must be stayed.