

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

KEVIN ALVARADO,

Defendant and Appellant.

B286840

(Los Angeles County
Super. Ct. No. BA457013)

APPEAL from a judgment of the Superior Court of Los Angeles County, Ray G. Jurado, Judge. Affirmed.

Miriam K. Billington, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Susan Sullivan Pithey and Robert M. Snider, Deputy Attorneys General, for Plaintiff and Respondent.

INTRODUCTION

Appellant Kevin Alvarado was convicted of one count of custodial possession of a weapon (Pen. Code, § 4502, subd. (a)) and sentenced to two years in state prison. On appeal, he asks that we review the sealed transcript containing the trial court's review of police officer personnel files under *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 (*Pitchess*). After reviewing the transcript, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In April 2017, Los Angeles County Deputy Sheriff Juan Cruz conducted a pat-down search of appellant, then an inmate at the men's central jail. Cruz found a weapon in the right pocket of appellant's pants. The Los Angeles County District Attorney subsequently charged appellant with custodial possession of a weapon. Appellant pleaded not guilty and later filed a discovery motion under *Pitchess*, seeking disclosure of various records related to Deputy Cruz and another officer. The trial court granted the motion "as to acts of dishonesty and fabrication of evidence regarding Deputy Cruz." The court reviewed Cruz's records in camera but found no discoverable material.

Following a jury trial, the jury found appellant guilty as charged, and the trial court sentenced him to two years in state prison. Appellant requests that we review the sealed transcript to determine whether there was any discoverable material. Respondent does not object.

DISCUSSION

A criminal defendant is entitled to the discovery of confidential police officer personnel records if the information

contained therein is relevant to his ability to defend against the charge. (*Pitchess*, *supra*, 11 Cal.3d at pp. 537-538.) To obtain such records, the defendant must submit an affidavit showing good cause for the discovery. (Evid. Code, § 1043, subd. (b)(3).) A showing of good cause requires a defendant seeking *Pitchess* discovery “to establish . . . a logical link between [a proposed defense] and the pending charge” and “to 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.) Discoverable information is “limited to instances of officer misconduct related to the misconduct asserted by the defendant.” (*Ibid.*; see *California Highway Patrol v. Superior Court* (2000) 84 Cal.App.4th 1010, 1021, italics omitted “[D]ocumentation of past officer misconduct which is similar to the misconduct alleged by defendant in the pending litigation is relevant and therefore subject to discovery.”.)

“When a defendant shows good cause for the discovery of information in an officer’s personnel records, the trial court must examine the records in camera to determine if any information should be disclosed.” (*People v. Anderson* (2018) 5 Cal.5th 372, 391, quoting *People v. Winbush* (2017) 2 Cal.5th 402, 424.) “[T]o protect the officer’s privacy, the examination of documents and questioning of the custodian should be done in camera . . . , and the transcript of the in camera hearing and all copies of the documents should be sealed.” (*Ibid.*, quoting *People v. Mooc* (2001) 26 Cal.4th 1216, 1229.)

An appellate court independently examines the record made by the trial court “to determine whether the trial court abused its discretion in denying a defendant’s motion for

disclosure of police personnel records.” (*People v. Prince* (2007) 40 Cal.4th 1179, 1285.)

We have reviewed the sealed transcript of the in camera hearing and conclude that the trial court did not abuse its discretion in finding that there was no discoverable material. (See *People v. Mooc, supra*, 26 Cal.4th at p. 1231.)

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

MANELLA, P. J.

We concur:

WILLHITE, J.

COLLINS, J.