Filed 12/9/25 P. v. Allen CA4/1

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE, Plaintiff and Respondent, v. KESHAUN T. ALLEN, Defendant and Appellant.	D084607 (Super. Ct. No. SCS325059)

APPEAL from a judgment of the Superior Court of San Diego County, Garry G. Haehnle, Maryann D'Addezio, and Amalia L. Meza, Judges. Conditionally reversed and remanded with directions.

Heather E. Shallenberger, under appointment by the Court of Appeal, for Defendant and Appellant.

Rob Bonta, Attorney General, Lance E. Winters, Chief Assistant Attorney General, Charles C. Ragland, Assistant Attorney General, Melissa Mandel and James Spradley, Deputy Attorneys General, for Plaintiff and Respondent.

Summer Stephan, San Diego County District Attorney, Linh Lam and Valerie M. Ryan, Deputy District Attorneys, as Amicus Curiae on behalf of Plaintiff and Appellant.

A jury found Keshaun T. Allen guilty of felony evading an officer with reckless driving (Veh. Code, § 2800.2, subd. (a)) (count 1) and misdemeanor resisting an officer (Pen. Code,[1] § 148, subd. (a)(1)) (count 2). At sentencing, the court placed Allen on two years of formal probation with a commitment to the sheriff of 180 days with further proceedings to be conducted as to whether such custody could be served through the County Parole and Alternative Custody (CPAC) program. At a subsequent hearing, the court ordered Allen to report to the CPAC program to serve his 180 days.

On appeal, Allen raises three claims. First, he claims that the trial court (Judge Haehnle) erred in denying his pretrial motion for discovery under the California Racial Justice Act of 2020 (RJA) (§§ 745, 1473, 1473.7). Specifically, Allen contends that the trial court committed legal error in denying the motion on the ground that there was an insufficient "connection" between a law enforcement officer's alleged "racial motive" in unholstering his firearm during the traffic stop that led to the charged offenses and Allen's prosecution. We agree the trial court erred in denying Allen's discovery motion by basing its ruling on an incorrect legal premise.

Second, Allen contends that the trial court (Judge Meza) erred in adjudicating his post-trial RJA motion. Specifically, Allen contends that the court erred in ordering the merits hearing on the RJA motion to proceed immediately following the prima facie hearing on this motion

---

1 Unless otherwise specified, all subsequent statutory references are to the Penal Code.

notwithstanding that a different judge (Judge D'Addezio) had assured defense counsel that the hearing would be "for the prima facie hearing only." Allen further contends that the court also erred in ruling that the hearing on the merits of his RJA claim would be based solely on the trial record. Allen argues that the court's rulings deprived the defense of the ability to present the testimony of two witnesses and prevented defense counsel from adequately preparing for the hearing. The People, represented by the Attorney General, concede the trial court erred, noting that the procedure employed by the trial court "was improper under the statute and deprived appellant of a fair opportunity to litigate his RJA claim."[2] We conclude that the trial court committed clear error, both by holding a merits hearing under the circumstances described above and by improperly limiting the evidence to be considered at the merits hearing.

Third, Allen raises two contentions pertaining to the probation order. He requests that we modify the written probation order to strike a condition related to substance abuse treatment based on the court's oral order striking all such conditions. Allen also contends that his counsel provided ineffective assistance of counsel in failing to object to a condition related to mental health counseling. The People contend that Allen cannot demonstrate that his counsel provided ineffective assistance but concede that a portion of the mental health counseling condition pertaining to psychotropic and psychiatric treatment should be struck. The People do not address Allen's request pertaining to the substance abuse condition.

---

[2] While this appeal was pending, this court granted an application of the District Attorney of the County of San Diego to file an amicus brief with respect to this claim. Allen filed a response to the District Attorney's amicus brief. We have considered all of the briefing and discuss the arguments presented in the District Attorney's amicus brief below.

We modify the written probation order by striking the substance abuse condition consistent with the trial court's oral order. We further conclude that Allen has not demonstrated that his counsel provided ineffective assistance in failing to object to the condition related to mental health counseling. Based on the People's concession, however, we modify the condition by striking the psychotropic and psychiatric treatment provisions.

In light of our conclusions on Allen's three claims, we conditionally vacate the modified judgment and remand the matter for further proceedings on Allen's RJA motion.

FACTUAL BACKGROUND

On January 27, 2023, Officer Ramon Ahumada of the National City Police Department was driving his police car at around 9:00 a.m., when he saw a fast-moving Dodge Challenger stop suddenly at a red light. Officer Ahumada began to follow the car. The car made a turn and "immediately parked" at a curb. As he passed by, Officer Ahumada saw the driver, later determined to be Allen, looking at him through a slightly opened tinted window. Officer Ahumada thought that the car's tinted windows violated the Vehicle Code.

Concerned that Allen might be "trying to avoid police," Officer Ahumada continued to drive down the street and pulled into a parking lot to wait for Allen to drive past him. However, instead of driving in the direction that Officer Ahumada was parked, Allen made a U-turn and drove in a different direction.

Officer Ahumada drove behind Allen and initiated a traffic stop "because of the erratic behavior." Allen pulled over, but he did not turn off the car's engine. Officer Ahumada approached the driver's side of Allen's car and ordered Allen to roll down his window and turn off the car's engine.

Allen refused to roll down the window or turn off the engine. According to Officer Ahumada, Allen "immediately became aggressive," and said, " 'No. I'm not turning off my car.' " Allen also said, " 'You guys always do this to me.' " Officer Ahumada called dispatch and informed the dispatcher that he had pulled over a driver who was being noncompliant.

Additional officers responded to the scene. The officers also told Allen to turn off the car. Allen refused, rolled up his window completely, and stopped communicating with the officers. One of the officers, National City Police Officer Vincent Shafer, directed the other officers to attempt to open the driver's side door, which was locked. Officer Shafer also banged on the front windshield of Allen's car. Seconds later, Officer Shafer unholstered his firearm and pointed it at the ground.

A couple of seconds later, Allen fled in the car at a high rate of speed and a police pursuit ensued. While traveling at over 70 miles per hour in a 35-mile-per-hour zone, Allen ran through several stop signs and red lights and drove on the wrong side of the road. Allen eventually entered the highway while driving over 100 miles an hour before escaping from the officers.

That same day, officers used the Challenger's license plate information to find the car, before having it towed and impounded. Later that same day, Allen called the police and stated that he was the driver of the Challenger. Officer Ahumada went to meet Allen. Allen told Officer Ahumada that he had driven off because the officers "pulled out [their] guns."

During a previous February 2022 incident not charged in this case, Allen fled from police while driving more than 120 miles per hour.

DISCUSSION

A. *The trial court abused its discretion by applying an incorrect legal standard in exercising its discretion to deny Allen's motion for disclosure pursuant to the RJA*

Allen claims that the trial court (Judge Haehnle) abused its discretion in denying his motion for disclosure pursuant to the RJA by resting its decision on "an incorrect legal premise." Specifically, Allen contends that the trial court erred in denying the motion on the ground that there was no "connection" between Officer Shafer's potential "racial motive" in unholstering his firearm and Allen's act in fleeing.

We review de novo the question of whether the trial court erred in denying Allen's motion for disclosure based on an incorrect legal premise. (See, e.g., *Young v. Superior Court of Solano County* (2022) 79 Cal.App.5th 138, 156 (*Young*) [vacating trial court's denial of discovery under the RJA and stating, "[w]e review the factual underpinnings of a discretionary determination for substantial evidence [citation], but where such a determination rests on 'incorrect legal premises,' our review is de novo"]; *Gonzales v. Superior Court* (2024) 108 Cal.App.5th Supp. 36, 55 (*Gonzales*) [same].)

1. *Factual and procedural background*

In August 2023, several months before the March 2024 jury trial, Allen filed a motion for disclosure under section 745, subdivision (d), seeking discovery related to Officer Shafer. Allen requested an order from the trial court directing the District Attorney to gather and disclose data from the National City Police Department regarding any time Officer Shafer unholstered his firearm, investigated or made an arrest under section 148, and used force or threatened to use force during an arrest or investigation.

Allen also asked the court to order Officer Shafer to "self-report all instances where he unholstered his firearm and did not document such action in any written report."

In support of his motion, Allen submitted excerpts from a report prepared by the Center for Policing Equity (CPE) as well as excerpts from a document from the San Diego County Sheriff's Department responding to that report. Allen highlighted that the CPE report stated that, in San Diego County, 18 percent of all use-of-force incidents recorded between 2016 and 2019 were against African American individuals, who made up only 4.9 percent of the local population. He also referred to a chart summarizing a regression analysis performed by CPE indicating that African American people were subjected to force four times as often as white people, after controlling for other possible relevant factors. In addition, Allen noted that the San Diego County Sheriff's Department acknowledged that African Americans were approximately twice as likely to subjected to the use of force than White people in this region.

In his motion, Allen also referred to various case-specific factors suggestive of the need for the discovery, including the following: the initial stop raised concerns over racial profiling; Officer Ahumada had attempted to "calm down" Officer Shafer after the latter unholstered his firearm during the traffic stop; and "[i]mmediately after the drawing of the firearm Mr. Allen drove off." (Capitalization omitted.)

Allen argued in part, "If Officer Shafer is using force or threatening to use force against Black people at a disproportional rate when compared to White people, then this raises concern. [The] [d]efense must be allowed to evaluate relevant evidence/data to determine whether [Allen] is being racially profiled, in violation of . . . section 745 [subdivision] (a)(1)."

The District Attorney filed a response arguing that the court should deny Allen's motion for several reasons, including that Allen had not demonstrated a plausible justification for discovery and that several of the other *Alhambra*[3] factors supported denial of the request.

The trial court (Judge Haehnle) held a hearing at which it heard argument from defense counsel and the prosecutor pertaining to Allen's motion. At one point in the argument, the trial court asked defense counsel, "[H]ow do we connect the unholstering of the gun to a race-based prosecution? How do we connect that? I'm missing the connection."

Defense counsel responded: "Well, that's the point for the data. I want to see who — when this officer pulls out his gun. Why does he pull out his gun? How many times on a 148[4] has he pulled out a gun?" Shortly thereafter, defense counsel continued, "So how many times does he pull out his firearm for a 148 and under what circumstances? And what were the race of those individuals? That's completely and absolutely relevant." Counsel continued, "Especially . . . when his partner on scene is clearly indicating and establishing that he believes his fellow officer, who's unholstering his firearm, is acting prematurely."

The trial court interjected, "And is the 148 prosecution based on

---

3 *City of Alhambra v. Superior Court* (1988) 205 Cal.App.3d 1118 (*Alhambra*)

4 Defense counsel was referring to section 148, which prohibits resisting arrest, one of the charged offenses in the case.

anything that Officer Shafer did?"

The prosecutor responded, "No. It's the — Officer Shafer to be clear didn't pull the defendant over. He arrived later after the defendant refused Officer Ahumada's commands . . . . Then other — additional officers came in and it began to escalate, and that's where the circumstance involving Officer Shafer who arrived later occurred."

The prosecutor argued, "We have a prosecution for a 2800.2[5] that occurred, and a 148 that occurred long before Officer Shafer even arrived at the scene. And I'm struggling just intellectually to understand how that constitutes a plausible justification for Officer Shafer's data to then lead to a prosecution on the basis of Mr. Allen's race, ethnicity or national origin. And that — that plausible justification has to be articulated before we even get to the seven-factor *Young* analysis."

Immediately thereafter, the court adjourned the hearing for a recess. Shortly after the resumption of the hearing, the court denied the motion. Although the trial court acknowledged that Officer Shafer's conduct may have been racially motivated, the court stated that there was a lack of "connection" between any such motives and the case being prosecuted based on race. The court explained its ruling as follows:

"So I had time to sit back and reflect on this and reflect on what I was originally thought processed on this [*sic*], and whether or not this — and my thought is on this case is, yes, that there may be an appearance of a potential — potential, and I'm not saying it happened, and I don't know the motive behind Officer Shafer's reasons for unholstering his gun. It may appear that there may have been a racist motive, but that alone itself without any

---

5 The prosecutor was referring to Vehicle Code section 2800.2, which prohibits evading an officer with reckless driving, one of the charged offenses in the case.

connection to this prosecution being race based is — the connection is not there. I'm not seeing — I don't — I can understand [defense counsel's] point. I can understand why this motion was raised because of the potential for that, but I have yet to see a connection between Officer Shafer and what may or may not have been his motives on that date and time of this events and the actual prosecution of this case being race based.

"So because there is — that connection is lacking, I'm not [going to] find it as no good cause for this [*sic*]. I'm going to deny the request for any discovery pursuant to the Racial Justice Act."

2. *The relevant substantive provision of the RJA*

As relevant here, the RJA provides:

> "(a) The state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin. A violation is established if the defendant proves, by a preponderance of the evidence, any of the following:
>
> "(1) . . . [A] law enforcement officer involved in the case . . . exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin." (§ 745.)[6]

In *Bonds v. Superior Court* (2024) 99 Cal.App.5th 821(*Bonds*) we explained, "[I]t now seems clear that a motion under the Racial Justice Act is properly brought to address alleged racial bias during a traffic stop." (*Id.* at p. 827, fn. 7 [citing *Finley v. Superior Court* (2023) 95 Cal.App.5th 12 and Couzens, *California Racial Justice Act of 2020* (Apr. 2023) at p. 8 ["The prohibition [in section 745, subdivision (a)(1)]

---

6 We note that the Legislature recently amended the RJA, although section 745, subdivision (a) was not amended. (See Stats. 2025 ch. 721, eff. Jan. 1, 2026.) On remand, the trial court may consider what effect, if any, Assembly Bill No. 1071 (Stats. 2025, ch. 721) has on the issues in this case going forward.

is sufficiently broad to . . . include bias or animus exhibited during a police investigation."]; see also *Jackson v. Superior Court* (2025) 109 Cal.App.5th 372, 387 (*Jackson*) [concluding defendant demonstrated prima facie violation of RJA based on actions of law enforcement officers during traffic stop].) For example, in *Bonds*, after concluding that the trial court had erred in its evaluation of the evidence, we remanded the matter to the trial court to consider whether the officer's "actions in initiating and conducting the traffic stop" exhibited implied bias. (*Bonds*, at p. 824.)

3. *The law governing discovery under the RJA*

Section 745, subdivision (d)[7] authorizes a defendant to file a motion for disclosure relevant to a potential violation of the statute as follows: "(d) A defendant may file a motion requesting disclosure to the defense of all evidence relevant to a potential violation of subdivision (a) in the possession or control of the state. A motion filed under this section shall describe the type of records or information the defendant seeks. Upon a showing of good cause, the court shall order the records to be released. Upon a showing of good cause, and in order to protect a privacy right or privilege, the court may permit the prosecution to redact information prior to disclosure or may

---

7 The Legislature recently amended section 745, subdivision (d) to clarify the types of proceedings in which a motion for disclosure under the statute may be brought. (See Stats. 2025 ch. 721, § 2.5.)

We also observe that the Legislature made a series of uncodified Legislative findings pertaining to the statute, including several pertaining to its discovery provisions. (See Stats. 2025 ch. 721, § 1.) For example, one finding states, "The Legislature also intends that individuals must be afforded access to a broad range of relevant discovery to develop and support their potential RJA claims. Otherwise, they are left in the impossible position of having their claims rejected for want of the very data they seek. This is antithetical to the RJA." (*Id.*, subd. (b).)

subject disclosure to a protective order. If a statutory privilege or constitutional privacy right cannot be adequately protected by redaction or a protective order, the court shall not order the release of the records."

In *Young, supra*, 79 Cal.App.5th 138, the Court of Appeal concluded that to establish good cause for discovery under the RJA, a defendant is required to "advance a plausible factual foundation, based on specific facts, that a violation of the Racial Justice Act 'could or might have occurred' in his case." (*Young*, at p. 159.) Courts applying the *Young* court's standard have emphasized the minimal showing a defendant must make to demonstrate a plausible factual foundation for discovery under the RJA. (See, e.g., *McDaniel v. Superior Court* (2025) 111 Cal.App.5th 228, 244 (*McDaniel*) [a trial court should consider the "relevance of the proffered facts to the claims of racial bias to determine whether a minimally plausible basis exists to grant discovery — a low threshold"]; *Gonzales, supra*, 108 Cal.App.5th at p. Supp. 44 ["the trial court required a showing by [defendant] of a plausible factual foundation as the threshold of good cause that is more onerous than required for disclosure under section 745 [subdivision] (d), and that [defendant] had minimally proffered a plausible factual foundation for a potential violation of the RJA"].)

The *Young* court further explained that "a showing of plausible justification is merely a threshold consideration. 'The trial court, in deciding whether the defendant shall be permitted to obtain discovery of the requested material, must consider and balance a number of [other] factors' [citation], '[s]pecifically . . . (1) whether the material requested is adequately described, (2) whether the requested material is reasonably available to the governmental entity from which it is sought (and not readily available to the defendant from other sources), (3) whether production of

the records containing the requested information would violate (i) third party confidentiality or privacy rights or (ii) any protected governmental interest, (4) whether the defendant has acted in a timely manner, (5) whether the time required to produce the requested information will necessitate an unreasonable delay of defendant's trial, [and] (6) whether the production of the records containing the requested information would place an unreasonable burden on the governmental entity involved' [citation, fns. omitted]." (*Young, supra,* 79 Cal.App.5th at pp. 144–145.)

Where a reviewing court determines that a trial court erred in determining that a defendant failed to carry its threshold burden to demonstrate a plausible factual foundation for discovery, but the trial court has yet to consider all the *Alhambra* factors, it is appropriate to remand the matter to permit the trial court to consider such factors in the first instance. (See, e.g., *McDaniel, supra*, 111 Cal.App.5th at pp. 248–249; *Gonzales, supra*, 108 Cal.App.5th at p. Supp. 66.)

4. *Analysis*

The trial court's conclusion that Officer Shafer's conduct may have been racially motivated, but that a violation under the RJA could not be established because those motives were not "connected to the prosecution," does not comport with the plain language of section 745, subdivision (a)(1). That section provides that "[a] violation is established," upon requisite proof that "a law enforcement officer involved in the case . . . exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin." (§ 745, subd. (a)(1).) Beyond the requirement that the officer be "involved in the case," (*ibid.*)[8] this subdivision contains no language

---

8 The People did not dispute in the trial court, and do not dispute on appeal, that Officer Shafer was "involved in the case" (§ 745, subd. (a)(1)).

suggesting that there must be evidence of a "connection" between a law enforcement officer's exhibition of racial bias and the "prosecution being race based," as the trial court suggested.

Nor are we aware of any case law that supports such an interpretation of section 745, subdivision (a)(1). Indeed, as noted above, on several occasions, courts have concluded that a motion may be brought under the RJA to address alleged racial bias exhibited by law enforcement officers "during" a traffic stop. (*Bonds, supra*, 99 Cal.App.5th at p. 827.) Nor do the People attempt to defend the trial court's reasoning on appeal, instead acknowledging the possibility that "the court's 'lack of connection' reasoning was flawed."

Moreover, even assuming strictly for the sake of this opinion that section 745, subdivision (a)(1) requires some "connection" between an officer's expression of bias and the "prosecution being race based," as the trial court phrased it, the court erred in denying Allen's motion based on the purported lack of such a connection in this case. Allen's motion for disclosure indicated that "[i]mmediately after the drawing of the firearm Mr. Allen drove off." (Capitalization omitted.) The People did not dispute this sequence of events in their response. The trial court also acknowledged that "[i]t may appear that there may have been a racist motive," for Officer Shafer unholstering his gun. Allen's showing that a law enforcement officer may have brandished a firearm out of racial animus or implicit racial bias during a traffic stop, that Allen immediately fled, and that Allen was later charged with evading an officer with reckless driving and resisting an officer amounts to "a plausible factual foundation, based on specific facts," (*Young, supra*, 79 Cal.App.5th at p. 159) that a violation of section 745, subdivision (a)(1) " 'could or might have occurred.' " (*Id.* at p. 144.) Thus, we conclude that the trial court erred

in denying Allen's motion. We need not determine whether the trial court's error was prejudicial given our conditional reversal and remand for further proceedings on other grounds as outlined below in part B.

We emphasize that we decide here only the narrow question of whether the trial court's ruling denying Allen's motion for discovery rested on an "incorrect legal premise[]." (*Young, supra*, 79 Cal.App.5th at p. 156.) We conclude only that the court erred in denying Allen's motion based on a purported lack of connection between Officer Shafer's potential racially motivated acts and the prosecution of the case. We offer no opinion on the People's other grounds for denying the motion for disclosure and leave those to the trial court's determination in the first instance on remand. (See e.g., *McDaniel, supra*, 111 Cal.App.5th at pp. 248–249; *Gonzales, supra*, 108 Cal.App.5th at p. Supp. 66.) Nor do we preclude Allen from filing a new or amended discovery motion considering both intervening developments in this case, including the evidence presented at trial and that which Allen offered in support of his substantive RJA motion, and/or the change in the law stemming from Assembly Bill No. 1071 (Stats. 2025, ch. 721).

B. *The trial court erred in denying Allen's request to continue the hearing on his substantive RJA motion and in ruling that the motion would be decided solely on the basis of the trial record*

Allen claims that the trial court abused its discretion in denying defense counsel's request to continue the evidentiary hearing on his substantive RJA motion. The People concede the trial court committed statutory error under the RJA and deprived Allen of a fair opportunity to litigate his claim.

1. *Procedural background*

On June 10, 2024, approximately two months after the jury rendered its guilty verdicts but before sentencing, Allen filed a motion for relief under

the RJA. Allen alleged that Officer Ahumada and Officer Shafer had exhibited racial bias in interacting with him during the incident that resulted in the charged offenses. Specifically, Allen claimed that Officer Ahumada had engaged in racial profiling in pulling him over. Allen noted that, while Officer Ahumada testified that he had not seen the face of the driver until Allen turned himself in, Officer Ahumada had described the suspect as a Black male in the "dispatch audio." Allen also claimed that Officer Shafer had exhibited racial bias by threatening excessive force and giving orders to Allen with a "Texas twang" during the stop. In addition, Allen contended that law enforcement officers engaged in a cover-up to hide their improper actions. Specially, Allen noted that: (1) Officer Shafer and another officer, Officer Benjamin Argersinger, never wrote a police report; (2) Officer Ahumada never documented that Officer Shafer had unholstered his firearm during the incident, and (3) Officer Ahumada "lied" in his police report in stating that Allen had stated that he fled because the officers had told him to turn off his vehicle when in fact Allen told the officers that he panicked in response to the firearm draw.

Allen supported his motion with the transcript of the trial testimony of both officers, body-worn camera transcripts of the officers' statements during the underlying incident, an unsigned probable cause declaration in support of Allen's arrest, data pertaining to traffic stops and the racial characteristics of individuals stopped in San Diego City and data pertaining to use-of-force incidents and the racial characteristics of individuals subjected to such force in San Diego County, and a San Diego County Sheriff's press release regarding a separate report prepared by CPE.

Four days later, the People filed an opposition contending that Allen had failed to establish a prima facie violation of the RJA.

The trial court (Judge D'Addezio) held a hearing on June 24. At the hearing, defense counsel explained that the matter was "supposed to be assigned to Judge Meza" since Judge Meza had conducted the jury trial. After taking a recess, Judge D'Addezio stated that Judge Meza was unable to hear the RJA motion that day, but explained that she would be available the following Thursday. Defense counsel responded that he had issued subpoenas for two law enforcement officers and that one of the officers had informed the defense that he would be unavailable on Thursday. Counsel explained further that, although the defense would be unable to proceed on the substantive hearing of the motion on that Thursday, "[w]e could do the prima facie hearing" that day and "reschedule the substantive hearing" if necessary. Judge D'Addezio agreed with defense counsel's proposal and set the matter "for the prima facie hearing only" for the following Thursday, June 27. The clerk's minute order confirmed this understanding, stating, "The Court will continue the matter for June 27, 2024 in front of Judge Meza as to Prima Facie only."

On June 27, the court (Judge Meza) held the continued hearing. After finding that Allen had made a "prima facie showing" on his RJA motion, the court stated it intended to hold a hearing on the merits of Allen's RJA motion that same day. Defense counsel objected, raising both "due process and procedural" concerns. Defense counsel explained, "[A]t the last court hearing, . . . I made it clear to [Judge D'Addezio] that we would continue this case for this Court's scheduling purposes solely for the prima facie hearing." As a result, defense counsel explained, "I was not prepared to argue the next stage of the actual evidentiary hearing as it was not set for today."

Defense counsel explained further that he wished to "put both of the officers back on the stand," and that there were a "myriad of areas" on which

counsel wanted to question the officers. For example, defense counsel stated that he wanted to question the officers concerning:

> "Any type of data that they're aware about in terms of their policing and stopping tactics;
>
> "What type of patrolling they're trained to do;
>
> "What type of patrolling they were doing;
>
> "What goes on to decide their discretionary decision-making and pulling certain people over for equipment violations;
>
> "Their decision — their discretionary decision-making on threatening to use force or using force;
>
> "The type of cars — or specifically the type of car driven in this case and what's the typical driver that they can recall pulling over who typically drives these type[s] of cars;
>
> "The neighborhood statistics that they're patrolling and, in particular, that area;
>
> "What's . . . the neighborhood statistics in terms of demographics of that area."

Defense counsel explained that this was not "an exhaustive list" but that these were areas that he desired to inquire of the law enforcement witnesses. Counsel noted that, while such questions were not relevant "at any other hearing," they were "relevant now." Defense counsel added, "I am strenuously objecting to the Court's moving forward with the actual evidentiary hearing at this time."

After discussing the matter further with counsel, the trial court stated: "I am going to make a ruling that this is [going to] be based on what happened at the trial, and I think that's what is required. So it's [going to] be based on the evidence that was adduced and any actions that may have

occurred during the trial. So we're not [going to] get into discovery. It's just limited to this trial, and that's what I think is the appropriate thing to do." The court added that it "vividly recall[ed] what happened, and we have a good record of what happened." The court stated that the hearing would take place after a lunch recess.

After the lunch recess, the court reiterated that the hearing would be based solely on the "record of what was presented at the trial and what happened in the course of the trial." The court continued: "And I also looked at the court file and reviewed the motions in limine. The defense was not denied the ability to question the officers about the nature of the stop and the attending circumstances. Quite the contrary. [¶] Race was delved into at length at the trial and the circumstances of the stop and why the defendant was stopped and if the officers had noticed his race before he was stopped or during the stop. So that went into — at great length.

"I note that the first officer, Ahumada, he was on the stand for quite some time. And 77 pages of transcript, and 40 pages of those was cross-examination.

"And Officer Shafer, 64 pages total, 41 pages by the defense. So we have an ample record of all of the things that the statute is wanting us to consider, so we're [going to] keep it focused and limited to that."

After inviting argument from both the prosecutor and defense counsel, the court ruled on Allen's RJA motion. With respect to Officer Ahumada, the trial court stated, "I find there was no evidence of racial profiling." As to Officer Shafer, the court determined "there was no evidence presented that Officer Shafer threatened excessive force based on bias or animus." The trial court further found that Officer Shafer's "Texas twang," was "a natural accent for him" that likely emerged given the

excitable situation and was not "some kind of racial animus." Finally, the court stated that it did not think that the officers had engaged in a cover-up. Ultimately, the court concluded that the defense had "failed to meet its burden of establishing by a preponderance of the evidence that the Racial Justice Act was violated," and denied the motion.

2. *Governing law*

Section 745, subdivision (c) outlines the procedure that governs a trial court's consideration of a defendant's motion under section 745.[9] The subdivision provides in relevant part: "If a motion is filed in the trial court and the defendant makes a prima facie showing of a violation of subdivision (a), the trial court shall hold a hearing. . . . [¶] (1) At the hearing, evidence may be presented by either party, including, but not limited to, statistical evidence, aggregate data, expert testimony, and the sworn testimony of witnesses. . . . [¶] (2) The defendant shall have the burden of proving a violation of subdivision (a) by a preponderance of the evidence. The defendant does not need to prove intentional discrimination. [¶] (3) At the conclusion of the hearing, the court shall make findings on the record."

"Although trial courts enjoy broad discretion to determine whether good cause exists to grant a continuance of trial, such discretion ' " 'may not be exercised so as to deprive the defendant or his attorney of a reasonable opportunity to prepare.' " ' " (*People v. Garcia* (2022) 85 Cal.App.5th 290, 297;

---

9 While the amended version of the RJA is materially the same, section 745, subdivision (c), as amended by Assembly Bill No. 1071, now includes the additional requirement that, "[i]f the defendant is represented by an attorney and the motion alleges a violation of paragraph (1) or (2) of subdivision (a), based in whole or in part on the conduct of one or more law enforcement officers, the attorney shall serve a copy of the motion on the law enforcement agency or agencies that employed the officer or officers." (Stats. 2025 ch. 721, § 2.5.)

id. at p. 293 (*Garcia*) [concluding trial court abused its discretion in denying request for continuance of sentencing hearing to permit defense counsel to prepare for a motion for discovery under the RJA].)

3. *Analysis*

As the Attorney General properly concedes, the trial court's insistence on proceeding to a hearing on June 27 on the merits of Allen's RJA claim violated section 745, subdivision (c) and deprived Allen of fair opportunity to litigate the claim.

As to statutory error, once the trial court found that Allen made a prima facie showing of a RJA violation, section 745, subdivision (c) provided the parties with the right to a hearing at which they could present evidence, including the "sworn testimony of witnesses." By insisting that the hearing on Allen's motion would be conducted "based on what happened at the trial," the trial court failed to act in accordance with this statutory mandate and deprived Allen of his right to present evidence on his RJA claim. Regardless of any factual overlap, the issues raised by the RJA motion were different from those litigated at trial, and the RJA gave Allen a right to present evidence on these issues at a hearing after the court found he had made a prima facie showing.

The court's insistence on proceeding with the merits hearing also denied Allen a reasonably opportunity to prepare for it. (*Garcia, supra*, 85 Cal.App.5th at p. 293.) In light of Judge D'Addezio's assurance that the June 27 hearing would be a "prima facie hearing only," Judge Meza's decision, without advance notice, to hold a hearing on June 27 on the merits of his RJA claim deprived Allen of a fair opportunity to litigate that claim. This is particularly true given that Judge D'Addezio had provided such assurance upon defense counsel's explanation that a law enforcement witness

whom counsel had subpoenaed would not be available on June 27. Further, defense counsel reasonably explained to Judge Meza that he was unprepared to proceed with the merits hearing on June 27 since no such hearing had been set for that day, and counsel provided a detailed offer of proof as to the evidence the defense intended to present at a continued hearing. Thus, defense counsel demonstrated good cause for continuing the unexpectedly set hearing and the trial court abused its discretion in failing to grant counsel's request. (*Ibid*.)

In an amicus brief, the San Diego County District Attorney argues that Allen "did not establish good cause and [he] was not prejudiced by the denial of the continuance request because the trial court would not have reached a different decision" on his RJA motion. We are not persuaded. For the reasons described above, defense counsel plainly established good cause to continue the hearing on the merits of Allen's RJA claim. Nor can we say that the trial court would have reached the same decision had it been presented with argument and evidence that it never received, particularly in light of the evidence that Allen offered in support of his RJA motion, defense counsel's offer of proof, and the inherent difficulty of determining whether a person exhibited racial bias prohibited by the RJA. (Cf. *Jackson, supra*, 109 Cal.App.5th at p. 385 ["ferreting out the existence of implicit bias is a herculean task that involves careful consideration of a variety of types of evidence"].)[10]

---

10 We need not specify the applicable standard of prejudice, since the error was prejudicial under even the most forgiving potentially applicable standard, i.e. that contained in *People v. Watson* (1956) 46 Cal.2d 818. (See *id*. at p. 837 [stating that reversal is required where it is " 'reasonably probable that a result more favorable to the appealing party would have been reached in the absence of the error' "].)

Amicus's further suggestion that we may affirm because defense counsel did not inform the trial court that he intended "to present *additional* testimony or evidence outside of Officers Ahumada and Shafer" is also unpersuasive. To begin with, as amicus appropriately acknowledges, "the trial record focused on guilt and not whether the RJA was violated through the conduct of the officers." Moreover, defense counsel informed the court of the types of questions that he intended to ask the officers that would be relevant to Allen's RJA motion, but which were not relevant at trial. For example, as noted above, defense counsel stated that he intended ask the officers about "[t]he neighborhood statistics" and the "demographics" of the area in which they were patrolling. Indeed, in its ruling denying Allen's motion, the trial court itself stated, "No evidence was introduced that this was proactive enforcement in a high-crime area in the community." In other words, the trial court faulted Allen for failing to present the same type of evidence it precluded him from presenting. Furthermore, given that the June 27 hearing was expressly set as a "prima facie hearing only," it would be speculative to conclude that the offer of proof that defense counsel was required to provide unexpectedly at the June 27 hearing encompassed the universe of evidence the defense would have presented at a properly scheduled evidentiary hearing on the merits.

Finally, we are not persuaded by amicus's argument that the "appropriate remedy" for any error committed by the trial court in denying defense counsel's continuance request is to stay the appeal and remand the matter pursuant to section 745, subdivision (b). Section 745, subdivision (b) provides in relevant part, "The *defendant* may also move to stay the appeal and request remand to the superior court to *file a motion* pursuant to this section." (Italics added.) Allen has made no such motion to stay the appeal,

and he has already filed a motion for relief under the RJA in the trial court. In any event, even assuming this court had authority to stay Allen's appeal and remand the matter pursuant to section 745, subdivision (b), amicus offers no persuasive argument as to why we should take such action in this appeal, and we decline to do so.

Instead, we conclude that the proper remedy is to conditionally reverse the judgment and to remand for further proceedings on Allen's RJA motion, including the holding of an evidentiary hearing pursuant to section 745, subdivision (c). (See *People v. Howard* (2024) 104 Cal.App.5th 625, 663 [conditionally reversing the judgment and remanding for further proceedings on defendant's RJA motion].)

C. *We modify the probation order by striking a substance abuse condition as directed in the trial court's oral order and by striking the psychotropic and psychiatric treatment provisions based on the People's concession*

Allen requests that we strike certain conditions pertaining to substance abuse and mental health contained in the probation order.

1. *Substance abuse conditions*

Allen argues that the trial court's written probation order "fails to reflect the trial court's order striking all alcohol and drug conditions, which include condition 14." He requests that we modify the written probation order to strike probation condition number 14 to reflect the court's oral order.

At the sentencing hearing, after the court granted Allen formal probation, defense counsel stated: "I wasn't prepared to have the sentencing hearing today, but I know I didn't object earlier, but alcohol conditions. Like, there's no indication that my client — any alcohol issues [*sic*]." After the trial court stated, "[a]gree," defense counsel added, "And drugs. I would just ask that any alcohol and drug testing be stricken."

The court responded, "Okay. So ordered."

Notwithstanding the court's oral order striking these conditions, probation condition number 14 of the written probation order provides: "Participate in a substance use level of care assessment with [seven] business days if directed by [probation officer.] Enrollment in [and] adhere to substance use treatment [and] recovery services, as clinically indicated if directed by [probation officer]."

We agree that probation condition number 14 of the written probation order should be stricken in accordance with the trial court's oral ruling.

2. *Mental health conditions*

Allen contends that defense counsel provided ineffective assistance in failing to object to probation condition number seven, which requires that Allen participate in treatment, therapy, and counseling as required, including participating in psychiatric counseling if mandated and taking psychotropic medications if prescribed.[11]

---

11 Specifically, probation condition number seven provides:
"Take psychotropic medications if prescribed / ordered by a doctor.
"Participate in treatment, therapy, counseling, or other course of conduct as suggested by validated assessment tests.
"Provide written authorization for the [probation officer] to receive progress and compliance reports from any medical/mental health care provider, or other treatment provider rendering treatment/services per court order under the terms of this grant of probation."

In addition, probation condition number seven directs Allen to "attend and successfully complete" the following types of counseling programs if directed to do so by his probation officer: "psychiatric," "individual," "group," "dual diagnosis," "anti-Theft," and "cognitive behavior." The condition also mandates that Allen "[a]uthorize the counselor to provide progress reports to the probation officer or court when requested; all costs to be borne by defendant."

The probation report recommended that Allen be "ordered to adhere to . . . counseling conditions in order to assist [him] in successfully completing his grant of probation." The report also stated that Allen understood that "counseling conditions [would] likely be imposed as conditions of probation," and that Allen was "willing to comply with these conditions should probation be granted in this case." The report further stated that Allen was a suitable candidate for probation but that "[a]s a punitive sanction, 180 days in custody is recommended."

At sentencing, the prosecutor argued that while the case did not warrant a prison sentence and that a grant of probation was appropriate, "I think, as the probation officer notes, close monitoring is appropriate, and I think to impress upon the defendant this time the very dangerous nature of his conduct that 180 days [in custody] is warranted, and I ask the Court to follow that recommendation."

The trial court asked Allen, "So if I adopt the terms and conditions of [p]robation as I have indicated, will you comply?" Allen responded in the affirmative.

Under the two-prong test established in *Strickland v. Washington* (1984) 466 U.S. 668, in order to prevail on an ineffective assistance of counsel claim, a defendant must demonstrate that trial counsel's performance was deficient and that this deficient performance resulted in prejudice. (*Id.* at p. 687.) Regarding deficient performance, the California Supreme Court has " 'repeatedly stressed "that '[if] the record on appeal sheds no light on why counsel acted or failed to act in the manner challenged[,] . . . unless counsel was asked for an explanation and failed to provide one, or unless there simply could be no satisfactory explanation,' the claim on appeal must be rejected." [Citations.] A claim of ineffective assistance in such a case is more

appropriately decided in a habeas corpus proceeding.' " (*People v. Barrett* (2025) 17 Cal.5th 897, 969 (*Barrett*).)

"A condition of probation will not be held invalid unless it '(1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality.' " (*People v. Lent* (1975) 15 Cal.3d 481, 486; see also *In re Ricardo P.* (2019) 7 Cal.5th 1113, 1122 ["*Lent*'s requirement that a probation condition must be ' "reasonably related to future criminality" ' contemplates a degree of proportionality between the burden imposed by a probation condition and the legitimate interests served by the condition"].)

The record on appeal in this case sheds no light on why defense counsel did not object to the counseling provision contained in probation condition number seven and counsel has not been asked to provide an explanation or failed to provide one. We are not persuaded by Allen's contention that defense counsel's statement that he "wasn't prepared to have the sentencing hearing," which counsel offered as an explanation for his belated request that the court strike certain drug and alcohol conditions, demonstrates in this direct appeal that counsel's failure to object to the mental health counseling condition resulted from "human error" rather than a tactical choice.

Nor can we say that there could be no satisfactory reason for why defense counsel might have elected not to raise such an objection. Given the circumstances of the offenses (and the trial court's statements at the hearing

pertaining to its perception of those circumstances),[12] the probation report's recommendation that Allen undergo counseling if directed and Allen's agreement to undergo such counseling, and the fact that the trial court was weighing whether to grant probation and/or impose an alternative custodial sanction, we cannot say that there could be no rational reason for why defense counsel might have reasonably elected not to object to a counseling probation condition. Defense counsel might have rationally decided that it was in his client's best interest to accede to the counseling recommendation in an effort to encourage the trial court to exercise its discretion to grant probation with the least restrictive custodial setting possible. Stated differently, defense counsel might have reasonably been fearful that the trial court would be unwilling to exercise its discretion to grant probation and/or permit Allen to participate in the CPAC program without a counseling condition.

Given that Allen cannot demonstrate why counsel failed to object to the mental health counseling condition or that there could be no rational reason for failing to object, Allen has not demonstrated that his counsel performed deficiently. (See *Barrett, supra*, 17 Cal.5th at p. 969.) And given that Allen cannot establish the deficient performance prong of *Strickland*, his ineffective assistance claim fails insofar as it is premised on defense counsel's failure to object to the mental health counseling provisions of probation condition number seven.

We need not consider whether counsel provided ineffective assistance

---

12 For example, at one point during the sentencing hearing, the court stated: "I think you [Mr. Allen] need to think about how you are going to deal with these situations in the future. Have a plan. And if you don't like the way you're treated, do something about it. But not the way you did it." At another point, the court stated, "Why did [the officer] pull the gun? It's because you refused to turn off your car. Just turn off the car."

in failing to object to the psychotropic and psychiatric treatment provisions in probation condition number seven, because the People concede that they are invalid under *Lent* and should be struck. We accept the People's concession and strike the psychotropic and psychiatric treatment provisions in probation condition number seven.

DISPOSITION

The judgment (probation order) is modified by striking probation condition number 14 pertaining to substance abuse assessment and treatment and by striking the psychotropic and psychiatric treatment provisions in probation condition number seven. As so modified, the judgment (probation order) is conditionally reversed, and the matter is remanded for further proceedings on Allen's motion under section 745, consistent with this opinion. If the trial court denies Allen relief on remand, it is directed to reinstate the judgment (probation order), as modified herein, and prepare an amended probation order reflecting the modifications. If the trial court grants Allen relief on remand, the trial court shall conduct any further proceedings as necessary.

BUCHANAN, J.

WE CONCUR:

O'ROURKE, Acting P. J.

KELETY, J.