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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

CLYDE LYDEN STAUFF,

Defendant and Appellant.

A133459

(Sonoma County
Super. Ct. No. SCR588875)

Defendant Clyde Lyden Stauff after a plea bargain pleaded no contest to a violation of Vehicle Code section 23103 and no contest to a violation of Business and Professions Code section 4060, misdemeanor possession of Oxycodone without a prescription. Sentence was suspended and he was placed on probation for two years. During the proceedings, his motion to suppress evidence was denied. Defendant filed a notice of appeal, contesting the denial of the motion.

Defendant's counsel filed an opening brief that raises no issues and asks this court for an independent review pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Defendant was notified of his right to file a supplemental brief and has not done so. After independent review of the record, we conclude there are no arguable issues to brief and affirm the judgment.

Background

California Highway Patrol Officer Juan Inguanzo was watching traffic traveling on Highway 116 through Guerneville. He saw a Saturn traveling at 40 miles per hour in a 25 miles per hour zone almost strike a man pushing his bicycle in the middle of a

pedestrian intersection. Officer Inguanzo activated his emergency lights and stopped defendant at a parking lot. He saw defendant reach toward the car's right front floorboard. Inguanzo smelled a strong odor of marijuana coming from the car. It "reeked." The officer asked defendant for his license and registration and defendant told him he did not have his license with him. Because of the strong smell of marijuana, Officer Inguanzo asked defendant if he had any weapons or drugs in the car. Defendant said, "No," and Inguanzo said he could smell the marijuana. Defendant said he had a pipe by the front passenger seat and a medical marijuana card at home. During the conversation, the officer noticed defendant's speech was delayed and he avoided eye contact. The officer verified through mobile computer that defendant had a valid license. He then detained defendant, handcuffed him in his patrol car while he searched the car for illegal drugs. Defendant volunteered there was some Percocet in his car. He was handcuffed during the search for officer safety since defendant was six feet, three inches in an open lot with many pedestrians and no back up available.

Under the right front passenger seat, the officer found a pharmacy bottle for Ibuprofen that contained 14 white pills in a plastic baggie. The officer recognized the pills as Percocet. He also found a plastic baggie containing suspected leafy marijuana. Nearby was a pipe containing green leafy residue. Another pipe was found on the rear floorboard.

The officer told defendant that it was a crime to possess Percocet without a prescription and marijuana without a medical card. He noticed defendant's pupils were constricted and initiated a "DUI investigation."

Defendant was placed under arrest and read his Miranda rights. Defendant said he bought the Percocet on the street from a friend, and was addicted to Percocet that he took for pain relief in his knees.

Discussion

After considering the evidence and argument of counsel, the court denied the motion to suppress because Officer Inguanzo had reasonable suspicion to stop defendant's car after a speeding defendant almost hit a pedestrian in a pedestrian zone.

The odor of marijuana and defendant's symptoms justified the detention and further investigation. Defendant volunteered that Percocet was in the car. The ensuing reasonable search led to the arrest.

We agree with the trial court's careful analysis and find no error in the proceedings.

The judgment is affirmed.

Marchiano, P.J.

We concur:

Margulies, J.

Banke, J.