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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.
JAMES HUYNH,
Defendant and Appellant.

A142469
(Alameda County
Super. Ct. No. C172751)

In this appeal, appointed counsel for appellant has filed a declaration representing he has made a thorough review of the record in the matter. He has found no issues meriting his need for further briefing. He has notified appellant of this determination and advised the client he may file a supplemental brief in the matter. Counsel advised this supplemental brief should be filed within 30 days of notice by counsel. No supplemental brief has been filed here. The appeal is therefore viewed in accordance with the principles of *People v. Wende* (1979) 25 Cal.3d 436. We have reviewed the record in this case and believe there is no basis for overturning the results of trial court proceedings.

In the matter, appellant appeals from a final judgment of imprisonment following a revocation of probation after a contested hearing. This appeal is appropriate pursuant to Penal Code section 1237.5, subdivision (b),¹ and California Rules of Court, rule 8.304(a).

¹ Unless otherwise noted, all statutory references will be to the Penal Code of California.

STATEMENT OF THE CASE

On September 27, 2013, the District Attorney of Alameda County filed a felony complaint charging appellant with one count of unlawful driving or theft of a vehicle (Veh. Code, §10851, subd. (a)). The complaint further alleged a prior prison term enhancement pursuant to section 667.5, subdivision (b), and two prior auto theft convictions under section 666.5.

On November 5, 2013, appellant entered a no contest plea to Vehicle Code section 10851. On December 6, 2013, the trial court imposed a five-year probation sentence, with one day in the county jail and credit for the one day. The court ordered appellant to pay a restitution fine of \$280 and several other fines and fees. Appellant, in Alameda County Superior Court case No. 171949, admitted a separate violation of probation, for which he received a 16-month sentence to be served in the county jail, with 386 days' credit. The trial court also ordered appellant to submit to search conditions and not to possess burglary tools.

On February 18, 2014, a petition to revoke probation was filed, charging appellant with committing a violation of section 466. He admitted this violation on March 18, 2014. The trial court imposed a sentence of 150 days in jail with credit for 72 days. Appellant also waived credit for the 150 days in jail for any future probation violations.

On April 24, 2014, a new petition to revoke probation was filed, alleging appellant committed a new violation of Vehicle Code section 10851, subdivision (a). After a contested hearing on July 10, 2014, the court found appellant in violation of his probation by a preponderance of the evidence. The violation was based on appellant's possession of "jingle keys" and a stereo faceplate that matched a stolen automobile. Appellant was also arrested in close proximity to the particular car. The court then terminated probation based on the new revocation.

The court concluded the violations of probation were serious and also that appellant had a poor criminal history, making aggravating factors in his sentence. The court found no factors in mitigation. The judge then sentenced appellant to the aggravated term of three years in prison, to be served in county jail. He awarded

appellant 162 days of credits. The court noted appellant's juvenile record dealing with vehicle theft crime, his adult conviction for DUI, petty theft, driving with a suspended license, along with his state prison sentence for section 496, subdivision (d), and a felony conviction for Vehicle Code section 10851, subdivision (a), for which he was sentenced to 16 months in jail.

On July 14, 2014, appellant filed a timely notice of appeal.

STATEMENT OF FACTS

Appellant was seen driving the stolen auto on September 25, 2013. When stopped and searched, he had two shaved keys and a methamphetamine pipe.

On February 11, 2014, he admitted to possessing a pipe used to smoke methamphetamine. He also had shaved keys; a stolen car was parked in the driveway where he was arrested.

On April 21, 2014, Arnold Kessler reported his 1998 Acura was stolen. At no time did appellant have permission to drive or possess this car. The car was returned to Kessler the next day by the police. Inside the car were items not belonging to Kessler. A vent in the car was broken and the faceplate of his stereo was removed. The stereo was an Alpine brand.

On April 22, 2014, Officer Dana Ly checked the license plate of a red Acura on the 1500 block of 20th Avenue in Oakland. Ly determined the car was stolen. Ly has recovered more than 30 stolen cars on this street in the past three years.

Ly drove a block away and saw appellant standing in a parking lot with others. Appellant had a bag of marijuana in his hand, which he gave to Officer Ly. He admitted to the officer he had some keys on his person when asked if he anything else illegal. In appellant's pants pocket, Ly found a key ring with "jingle keys," filed-down car keys that are used to force the car ignition to start, and another "key" fashioned from a metal shaft. The front radio plate from an Alpine radio was found in his pocket also. Ly handed the faceplate and some keys to Officer Ruiz. Ruiz checked the items with the suspect vehicle. One of the keys on the ring found on appellant's person started the Acura car.

The Alpine faceplate fit the dash of the Acura that was stolen, and with it, the stereo turned on.

ANALYSIS

We have reviewed the record in this matter. The trial court provided appellant with ample opportunity to reform his conduct to the law. He was given several chances to complete probation, only to engage in several instances of misconduct that triggered first modification and then revocation of probation, with prison consequences. He was ably represented by counsel during each of the proceedings reviewed.

DISPOSITION

The judgment is affirmed.

Dondero, J.

We concur:

Humes, P.J.

Margulies, J.