

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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 SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

JEREMIAH HOLMES,

Defendant and Appellant.

2d Crim. No. B232694
(Super. Ct. No. BA371780)
(Los Angeles County)

A jury found Jeremiah Holmes guilty of assault on a peace officer (Pen. Code, § 241, subd. (c)), resisting or obstructing a peace officer in the performance of his or her duties (§ 148, subd. (a)) and resisting an executive officer in the performance of his or her duties by force or violence (§ 69).¹

On appeal, Holmes requests that we review all materials examined at the in camera hearing held pursuant to *Pitchess v. Superior Court* (1974) 11 Cal.3d 531. We affirm.

FACTS

On May 5, 2010, Holmes was an inmate at the Los Angeles County jail. Deputy Sheriff Clarissa Torres was working at the jail. Holmes told Torres, "You need to

¹ All statutory references are to the Penal Code.

send units to my house right now." Holmes said he knew there was an emergency at his house because nobody was answering the telephone.

Torres told Holmes to sit down, and she would get back to him. He refused to sit down. Instead, he lifted his hands to his waist and clenched them into fists saying, "I will remember you, you will get yours."

Torres became concerned for her safety and for that of the other inmates. She ordered Holmes to turn around and place his hands behind his back. He complied. But when she tried to handcuff him, he jerked away. He hit her on her right temple with his elbow and punched her twice on the right side of her head.

Deputy Edwardo Morales came to Torres's assistance. He ordered Holmes to get on the ground. Holmes refused. Instead, he raised his fist. Morales punched Holmes three times in the face, and Holmes fell to the ground. As Morales and Torres were handcuffing Holmes, Holmes was kicking his legs. Deputy Jason Little put his knees on Holmes's legs to prevent him from kicking.

Pitchess Motion

Prior to trial, Holmes made a motion to discover evidence of misconduct in the personnel records of Deputies Torres, Morales and Little. The trial court found Holmes made a showing of good cause as to all three deputies. The trial court limited the discovery to perjury and lying in a police report as to Little.

The trial court reviewed the deputies' personnel records in chambers. The court found no discoverable complaints.

DISCUSSION

Evidence contained in a law enforcement officer's personnel file may be relevant to an accused person's criminal defense. (See *Pitchess v. Superior Court, supra*, 11 Cal.3d at p. 537.) Accordingly, on the defendant's showing of good cause the custodian of records should bring to the court all documents potentially relevant to the defendant's motion. (*People v. Mooc* (2001) 26 Cal.4th 1216, 1226.) Because the officer in question has a strong privacy interest in his personnel records, a neutral trial judge must examine the records in camera. (*Id.* at p. 1227.) The trial court orders disclosed to

the defendant only those records that are found both relevant and otherwise in compliance with statutory limitations. (*Ibid.*)

We independently review the transcript of the trial court's in camera *Pitches* hearing to determine whether the trial court abused its discretion in refusing to disclose an officer's personnel records. (*People v. Lewis* (2006) 39 Cal.4th 970, 992.)

We have reviewed the record of the hearing and conclude the trial court did not abuse its discretion.

The judgment is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P.J.

We concur:

YEGAN, J.

PERREN, J.

Michael E. Pastor, Judge

Superior Court County of Los Angeles

Linda L. Gordon, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Victoria B. Wilson, Supervising Deputy Attorney General, Viet H. Nguyen, Deputy Attorney General, for Plaintiff and Respondent.