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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

BRUCE WESTIN,

Defendant and Appellant.

B234855

(Los Angeles County
Super. Ct. No. SA061160)

APPEAL from an order of the Superior Court of Los Angeles County,
Shellie Samuels, Judge. Affirmed.

Murray A. Rosenberg, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

In September 2007, following his conviction of felony vandalism (Pen. Code, § 594, subd. (a)),¹ defendant Bruce Westin was placed on five years formal probation subject to various terms and conditions, including that he serve 362 days in county jail (time served). On July 19, 2011, the trial court found him in violation of probation. The court revoked and reinstated his probation, on condition that he serve 45 days in county jail and submit to periodic narcotics testing. He appeals from the trial court's order.

The evidence at the probation violation hearing showed the following. Los Angeles Deputy Sheriff Jonathan Wilson testified that on February 14, 2011, at around 7:45 p.m., he contacted defendant at the Embassy Suites in Valencia. He observed that defendant displayed symptoms of being under the influence of narcotics: he was sweaty and his pupils were dilated.

Los Angeles Sheriff's Deputy John Leitelt, who was also present, likewise observed that defendant appeared to be under the influence of narcotics. He was sweating, speaking rapidly, and moving a lot. When he was asked a question, he would respond in ways having nothing to do with the question. When booked, his eyes were droopy and slanting closed. Deputy Leitelt asked defendant several times to submit to a urine sample, but he refused and was belligerent during the booking process.

Los Angeles Sheriff's Deputy William Velek, who had training and experience in detecting whether persons are under the influence of narcotics, observed defendant at the Embassy Suites. Defendant displayed the following symptoms: rapid speech, profuse sweating, pupils dilated to seven millimeters and showing slow reaction to light, trembling eyelids when closed, and fast heart rate

¹ The record is unclear whether the conviction occurred as the result of a plea or a trial.

(130 beats per minute). Based on these symptoms, Deputy Velek believed that defendant was under the influence of a stimulant.

Los Angeles County Deputy Sheriff's Deputy Alex Vaziri, who was a drug recognition expert, was present in court to hear the other deputies describe defendant's symptoms. In his opinion, based on those symptoms, defendant was under the influence of a stimulant, most likely methamphetamine.

Based on this evidence, the trial court found defendant in violation of probation, in particular the condition requiring him to obey all laws.

Defendant's court appointed counsel filed an opening brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 and informed defendant of his right to file a supplemental brief. We received two letter briefs from defendant.

He contends that the trial court erred in sustaining objections to his questioning the deputies concerning whether they kicked in his door and had their weapons drawn. We disagree. Such testimony was irrelevant to the question whether defendant was under the influence of narcotics.

Defendant also contends that the trial court "disallowed the submission of a hair-drug-test that would have demonstrated [defendant] does not use drugs." However, the record does not refer to any such evidence.

We have independently reviewed the record and are satisfied that no arguable issue exists. Defendant has, by virtue of counsel's compliance with the *Wende* procedure, received effective appellate review. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-279; *People v. Kelly* (2006) 40 Cal.4th 106, 123-124.)

DISPOSITION

The order is affirmed.

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.