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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.

FRANCINE M. TURNER,

Defendant and Appellant.

B235565

(Los Angeles County
Super. Ct. No. BA371078)

APPEAL from a judgment of the Superior Court of Los Angeles County, Craig Richman, Judge. Affirmed.

Richard L. Fitzer, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Francine M. Turner appeals from the judgment entered after her no contest plea to one count of transporting, selling, or offering to sell a controlled substance (Health & Saf. Code, § 11352, subd. (a)) and one count of possessing marijuana for sale (Health & Saf. Code, § 11359). She was placed on probation for three years with conditions.

The lead appellant, Kelton Bernard Lasley, abandoned his appeal, which was dismissed on March 29, 2012. Codefendant Stacy Tyrone Lee is not a party to this appeal.

Turner's notice of appeal states that she challenges the denial of her motion to suppress evidence under Penal Code section 1538.5. (Cal. Rules of Court, rule 8.304(b)(4)(A).) Her appointed counsel filed a *Wende* brief. (*People v. Wende* (1979) 25 Cal.3d 436.) On January 17, 2012, we directed appointed counsel to send the record and a copy of counsel's brief to Turner and notified Turner of her right to respond within 30 days. We have received no response.

The evidence elicited at the hearings on the motion to suppress was that, on May 6, 2010, Los Angeles police conducted a narcotics operation, during which an undercover officer approached Lee on the street, paid him \$20, and waited for him to return with cocaine. According to the officers' version of events, Lee was then observed talking to Turner and exchanging something with Lasley on the front steps of an apartment building. After the controlled buy from Lee was complete, officers were directed to the apartment Turner and Lasley were seen entering.

The officers knocked on the apartment door, and when Turner answered, she and Lasley were asked to step out of the apartment. A protective sweep was conducted. An officer led Turner to a courtyard and told her the apartment was under investigation. She was not handcuffed. A detective suggested that Turner sign a consent to search form. The officer retrieved the form from his car, read it to Turner, and directed her to read it herself. The form stated that Turner could refuse consent. She signed the form. The search of the apartment revealed drugs, drug paraphernalia, cash, and a handgun. Turner

was arrested and handcuffed. Her two children, who had come on the scene while the search was underway, were taken to her parents' home at her request.

Turner and Lasley presented a different version of events. Turner denied sitting with Lee and Lasley on the front steps before police arrived at her door. She and Lasley testified she was handcuffed either immediately upon answering the door or after she was taken outside the apartment. But Turner acknowledged she was initially told she was not in trouble and was not going to jail. She claimed her children came back, accompanied by a family friend, and the officer asked her whether anyone could take care of them because otherwise they would go to "Children's Services."¹ Turner told him the family friend who accompanied the children could take care of them. The officer handed her a paper, which she understood she needed to sign for her children to be released to the family friend. She signed the paper without reading it. She was not asked whether the officers could search her apartment.

Turner's counsel argued that her detention was illegal and her written consent involuntary. The trial court noted the conflicting testimony and stated that it did not believe the officers "automatically" handcuffed Turner. The court ruled that, based on her interaction with Lee during the controlled buy, Turner was lawfully detained, and that her written consent to search was knowing, intelligent, and voluntary.

We have reviewed the whole record under *People v. Kelly* (2006) 40 Cal.4th 106. No arguable issues for appeal exist.

¹ We take this to be a reference to the Los Angeles County Department of Children and Family Services.

DISPOSITION

The judgment is affirmed.

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EPSTEIN, P. J.

We concur:

MANELLA, J.

SUZUKAWA, J.