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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.

ARTIST DWAYNE HARDY, III,

Defendant and Appellant.

B235985

(Los Angeles County
Super. Ct. No. TA116739)

APPEAL from a judgment of the Superior Court of Los Angeles County, Pat Connolly, Judge. Affirmed.

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

No appearance for Plaintiff and Respondent.

Artist Dwayne Hardy III appeals from a judgment imposing two years of formal probation after a plea of no contest to possession of marijuana for sale.

On February 11, 2011, the Los Angeles County Sheriff's Department received an anonymous tip that four black males were selling narcotics in a certain location, by placing the narcotics in trashcans. After placing the area under surveillance, Deputies Debbie Rocha and her partner observed appellant open a trashbin and place a black bag inside. Appellant then walked to his car and got into the driver's seat. The deputies drove up to appellant's car. When they did so, Deputy Rocha saw a man sitting in the back seat of the car drinking a bottle of gin. The deputies decided to detain the other man for drinking in public. Immediately upon looking inside the car, Deputy Rocha saw a baggie of marijuana in plain view, inches from where appellant was sitting. During the subsequent search of the car, the deputies found a scale in the center console of the car. Deputy Rocha also recovered the black bag from the trashbin; it held 42 plastic baggies containing marijuana.

Appellant filed a motion seeking discoverable materials pursuant to *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, 535 (*Pitchess*). After granting the motion and conducting an in camera review, the trial court found there were no discloseable documents. Appellant also filed a motion to suppress the evidence found in his vehicle pursuant to Penal Code section 1538.5. The court denied the motion, finding that appellant was properly detained and that the baggie of marijuana found in the car was in plain view.

After appellant filed a timely notice of appeal from the denial of his motion to suppress, this court appointed counsel to represent him. On November 21, 2011, appointed counsel filed an appellate brief raising no issues, but asking this court to independently review the record on appeal pursuant to *People v. Wende* (1979)

25 Cal.3d 436, 441-442. (See *Smith v. Robbins* (2000) 528 U.S. 259, 264.) On November 22, 2011, we advised appellant he had 30 days within which to submit by brief or letter any contentions or argument he wished this court to consider. No response was received.

This court has examined the entire record in accordance with *People v. Wende, supra*, 25 Cal.3d at pages 441-442. This court also has independently reviewed the sealed transcript of the in camera proceeding on the *Pitchess* motion. (*People v. Mooc* (2001) 26 Cal.4th 1216, 1232.) We agree with counsel that no arguable issue exists on appeal. Accordingly, we affirm the judgment of conviction.

DISPOSITION

The judgment is affirmed.

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MANELLA, J.

We concur:

EPSTEIN, P. J.

SUZUKAWA, J.