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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

SHAWN P. FIELDS,

Defendant and Appellant.

B236186

(Los Angeles County
Super. Ct. No. PA068775)

APPEAL from a judgment of the Superior Court of Los Angeles County. Beverly Reid O'Connell, Judge. Affirmed.

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

No appearance for Plaintiff and Respondent.

On October 2, 2010, at about 2:10 a.m., a car collided with a person riding a bicycle on the street. The bicycle rider died as a result of the injuries he suffered in the collision. The car left the scene of the accident.¹

Witnesses (drivers of other vehicles) observed that the car that left the scene was being driven erratically. One of these witnesses pursued the car and located it parked in a driveway about a quarter of a mile from the scene of the accident. The witness returned to the scene and told police officers what he saw. The witness guided a detective and two officers to the residence where the suspect car was parked.

An officer determined that the car was registered to defendant Shawn Fields, but it was not registered at the same address where it was parked. An officer observed the car in the driveway. It had damage to the front bumper, the hood, the windshield and the roof. There was a trail of fluid from the street onto the driveway leading to the car.

At about 3:00 a.m., the officers approached the front of the house. The metal security door was closed, but the wooden door behind it was open, allowing the officers to see into the residence. Using the handle of his baton, an officer knocked on the security door. He also announced his presence by yelling, "police," and requesting that someone come to the front door. He knocked for four to five minutes, but there was no response.

Another officer looked into a window located to the right of the front door. That officer indicated that he could see a person's feet through a section of the window which was not covered by the blinds. The officers knocked on the glass of the window and called to the person inside. The person did not respond. An officer raised the unlocked window, moved the blinds, looked inside and illuminated the room with a flashlight. The officers continued to yell in an effort to get the person to respond. The person was unresponsive. An officer climbed through the window and opened the front door so that the other officer and the detective could enter the residence.

¹ This factual summary of the crimes and the investigation is based on evidence admitted at the preliminary hearing and in connection with Fields's motion to suppress evidence.

The officers went to the bedroom that they had been looking into from outside. A person was lying in bed. It took three to four minutes for the officers to wake him. They asked if he was okay. Then they asked his name (Fields), if he was the owner of the damaged car in the driveway and if he had been driving the car that evening. He answered their questions.² The officers observed that Fields appeared intoxicated. His breath smelled like alcohol, his speech was slurred and his eyes were red and glassy. When the officers determined that Fields was the driver of the vehicle which was involved in the collision and fled the scene, Fields was placed under arrest and transported to the police station where a breath test was administered.

A March 30, 2011 information charged Fields with gross vehicular manslaughter while intoxicated (Pen. Code, § 191.5, subd. (a); count 1), driving under the influence causing injury (Veh. Code, § 23153, subd. (a); count 2), driving with a 0.08 percent blood alcohol level causing injury (Veh. Code, § 23153, subd. (b); count 3), and leaving the scene of an accident (Veh. Code, § 20001, subd. (a); count 4.) The information also included the special allegation that, after committing the offense alleged in count 1, Fields fled the scene of the crime. (Veh. Code, § 20001, subd. (c).)

On August 5, 2011, Fields filed a motion to suppress evidence, including: “All observations of the defendant (Shawn Fields) inside [his] residence . . . , all observations of the conditions inside the residence, all evidence obtained from within the residence, all statements taken from or attributed to the same defendant inside the residence and afterward at any other location, and any other evidence (testimonial or physical) attributed to or related to the defendant, which is based on or ensuing from the Los Angeles Police Department having entered the above-described residence on or about October 2, 2010, at approximately 3:00 a.m.” Fields argued that the officers violated his right to be free from unreasonable search and seizure when they improperly entered the curtilage of his residence to make their initial observations and then entered the residence without a search warrant.

² Fields was not given *Miranda* warnings before he answered these questions.

The prosecution filed an opposition to the motion to suppress, arguing that the search and seizure were reasonable because (1) officers had probable cause to arrest Fields for leaving the scene of an accident (Veh. Code, § 20001, subd. (a)) before they entered the curtilage of his residence; (2) officers had a reasonable belief that Fields was in need of aid because he had been in “a serious car accident” and was not responding to officers’ attempts to rouse him; and (3) officers had probable cause to believe that Fields was driving under the influence of alcohol or drugs and evidence of that impairment “was in imminent danger of destruction.”

On August 16, 2011, the trial court held a hearing on Fields’s motion to suppress evidence. After hearing testimony from a police officer who entered Fields’s residence on October 2, 2010, and receiving evidence (photographs of Fields’s residence and its curtilage),³ the court denied the motion to suppress. The court found that the officers had probable cause to knock on the front door of Fields’s residence and to conduct an investigation regarding driving under the influence. The court further found that when Fields did not respond to the officers’ attempts to rouse him, it was permissible for the officers to enter the residence to preserve evidence demonstrating that Fields was driving under the influence of alcohol or drugs and to determine if Fields was in need of aid.

On September 22, 2011, the trial court granted the prosecution’s motion to amend count 1 of the information to allege a violation of Penal Code section 191.5, subdivision (b) [vehicular manslaughter while intoxicated], instead of Penal Code section 191.5, subdivision (a) [gross vehicular manslaughter while intoxicated]. Fields waived his constitutional rights and entered a negotiated plea of no contest to the amended charge in count 1, vehicular manslaughter while intoxicated. Fields admitted the special allegation that, after committing the offense alleged in count 1, he fled the scene of the crime. (Veh. Code, § 20001, subd. (c).)

³ We requested from the trial court and have reviewed these photographs which were admitted into evidence at the hearing on Fields’s motion to suppress evidence.

On September 22, 2011, the trial court sentenced Fields to seven years in prison, in conformity with the plea agreement: the mid-term of two years for vehicular manslaughter while intoxicated, plus five years for the enhancement under Vehicle Code section 20001, subdivision (c). The court granted the prosecution's motion to dismiss counts 2 through 4.

Fields filed a timely appeal and an application for a certificate of probable cause. The trial court granted the application and issued the certificate of probable cause.

We appointed counsel to represent Fields on appeal. After examination of the record, counsel filed an opening brief raising no issues and asking this court to review the record independently pursuant to *People v. Wende* (1979) 25 Cal.3d 436. On December 8, 2011, we advised Fields that he personally had 30 days to submit any contentions or issues he wished us to consider. We also directed his appointed counsel to send the record and opening brief to Fields immediately. To date, we have received no response.

We have examined the entire record and are satisfied that Fields's counsel has complied with his responsibilities and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109-110; *People v. Wende, supra*, 25 Cal.3d at p. 441.)

DISPOSITION

The judgment is affirmed.

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CHANEY, J.

We concur:

ROTHSCHILD, Acting P. J.

JOHNSON, J.