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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.

TAMMY RUDY AUSTIN,

Defendant and Appellant.

B239351

(Los Angeles County  
Super. Ct. No. LA068936)

APPEAL from a judgment of the Superior Court of Los Angeles County,  
Gregory A. Dohi, Judge. Affirmed.

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

No appearance for Plaintiff and Respondent.

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## **FACTUAL BACKGROUND**

### *The Prosecution's Case*

On the afternoon of September 16, 2011, LAPD Officers Svoboda and Lantz were patrolling the area near the residence of appellant Tammy Rudy Austin. The area had a high rate of car burglaries and narcotics activity. The officers contacted Ernesto Cabral, a known probationer. Cabral indicated that he lived with Austin, who was his girlfriend, at 6012 Carpenter Ave.

The officers knocked on the front door of Austin's residence, and she opened the door. They asked if they could come inside to discuss recent burglaries in the area. Austin said, "yes," and stepped aside in a way that appeared to the officers to be an invitation to enter. They walked into the living room with Cabral. In plain view, Officer Svoboda saw a cylindrical glass pipe commonly used to smoke methamphetamine in the bedroom a few feet away. Officer Svoboda also saw a plastic baggie containing what was later determined to be 2.15 grams of methamphetamine on the bed.

The Officer arrested appellant and asked permission to search the house, to which Austin consented. The officer found additional methamphetamine in a dresser drawer, and narcotics in Austin's purse. Austin admitted that the drugs found in the residence were hers. Officer Svoboda asked Austin if Cabral lived in the residence. She said he sometimes slept on the living room couch, and confirmed that they had a relationship.

### *The Defense Case*

Only Officer Svoboda knocked on the door; she was already handcuffed by the time Officer Lantz and Cabral came in. When she opened the door, officer Svoboda just walked in. She never gave him permission to enter. The officer went immediately into the bedroom, saw an empty baggie on the bed and arrested her. Austin told the officer that Cabral did not live there. She never gave the police permission to search her home.

## **PROCEDURAL BACKGROUND**

By information, Austin was charged with possession of a controlled substance. (Health & Saf. Code, § 11377, subd. (a).) Austin's counsel filed a motion to suppress (Pen. Code, § 1538.5), arguing she did not consent to the warrantless search, and a

motion to dismiss (Pen. Code, § 995). Both motions were denied. The motions were renewed—and denied again—at a pretrial conference.

Austin waived her constitutional rights and pleaded no contest to misdemeanor possession of a controlled substance. The court suspended imposition of sentence, placed Austin on summary probation for one year and imposed various fees and fines. Appellant filed a timely notice of appeal from the trial court’s denial of her motions to dismiss and her motion to suppress.

We appointed counsel to represent Austin on appeal. After examination of the record, Austin’s counsel filed an opening brief raising no issues, and asking this court to independently review the record. On May 29, 2012, we advised Austin she had 30 days within which to personally submit any contentions or issues she wished us to consider. To date, we have received no response.

We have examined the entire record and are satisfied that Austin’s counsel fully complied with his responsibilities, and that no arguable issues exist. (*People v. Kelly* (2006) 40 Cal.4th 106, 109–110; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

**DISPOSITION**

The judgment is affirmed.  
NOT TO BE PUBLISHED.

JOHNSON, J.

We concur:

MALLANO, P. J.

CHANEY, J.