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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

RANDY JACKSON,

Defendant and Appellant.

B240009

(Los Angeles County
Super. Ct. No. YA080512)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Eric C. Taylor, Judge. Affirmed.

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

No appearance for Plaintiff and Respondent.

In the late evening of January 29, 2011, Torrance Police Sergeant Eric Williams stopped his patrol car to investigate a Ford Explorer that was stopped in a left-turn pocket at the intersection of Sepulveda and Walnut because there was no traffic nearby and because the car was not moving and its brake lights were not illuminated.¹ Williams believed this meant the car was either not working or had been abandoned. After stopping behind the Ford, Williams walked to the driver's side door and saw that the driver – Randy Jackson – appeared to be sleeping. Williams called out for Jackson to wake up, and then banged on the window. This roused Jackson, who, even though the car was in park, grabbed the car's gear shifter and tried to put it in park.

Because Jackson appeared disoriented, Williams opened the car door and asked Jackson what he was doing there. Jackson said he was very tired. Williams saw several pocket knives atop the car's center console and asked Jackson to step out of the car. Williams did so for several reasons: he was concerned by Jackson's proximity to those knives; Jackson appeared disoriented; Williams felt it might help Jackson clear his head to get out and talk; and because he felt unsafe conducting a traffic stop from a traffic island in the middle of the road.

Williams's partner, Officer Ryan, joined Williams and the officers asked Jackson if they could do a pat-down search. The officers made that request because Jackson was a large man of nearly 300 pounds, and because of the several knives spotted in the car. Jackson consented to the pat-down search and two more pocket knives were found on Jackson's person. Jackson became somewhat noncompliant during the pat-down search by failing to keep his hands on his head and by moving around. Williams told Ryan to handcuff Jackson because of Jackson's size, the fact that they were on a small traffic island, and the fact that they were still in the middle of a pat-down search that had just located two knives.

After handcuffing Jackson, Williams walked him to the rear of the patrol car while a warrant check was being run. The warrant check revealed that Jackson had a suspended

¹ The statement of facts comes from the hearing on a motion to suppress evidence, which the trial court denied.

driver's license and that there was a \$10,000 arrest warrant out for him. Jackson said he had smoked some marijuana earlier on, so Williams performed a field sobriety test, and determined that Jackson was not under the influence at that time. Williams decided to arrest Jackson based on the arrest warrant and the suspended driver's license. He had Ryan perform a full search of Jackson's person and found some cash.² Williams then decided to impound Jackson's car, and searched the car pursuant to his department's established protocol. That search turned up a pill bottle containing methamphetamine,³ three empty baggies, a digital scale, a cell phone, a backpack, and a fourth baggie with some white residue at the bottom.

Once back at the police station, Williams examined Jackson's cell phone and discovered text messages that related to the sale of narcotics. Williams did so based on his training and experience, which told him that because of the amount of cash Jackson had and the presence of a scale in his car, "there could be text messaging detailing possible transactions or requests for transactions." Williams also knew that cell phone memories could be erased, and that the batteries could die. In order to preserve that evidence, he took photos of the text messages.

Based on these discoveries, Jackson was charged with one count of possessing a controlled substance for sale (Health & Saf. Code, § 11378), and driving with a suspended license (Veh. Code, § 14601.1, subd. (a)). The information also alleged that Jackson had a prior drug possession for sale conviction (Health & Saf. Code, § 11351) that qualified both as a prior prison term under Penal Code section 667.5, subdivision (b), and for a three-year sentence enhancement under Health and Safety Code, section 11370.2, subdivision (a). Jackson eventually pleaded no contest pursuant to a plea agreement. As a result, the count for driving on a suspended license was dismissed. Jackson was sentenced to two years in County Jail, along with certain fines.

² Williams testified at the preliminary hearing that he found \$882 in cash, \$580 of which was in \$20 bills.

³ It was stipulated at the preliminary hearing that the bottle contained 1.75 grams of methamphetamine.

Jackson filed a notice of appeal. On September 17, 2012, his appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) in which no issues were raised. The brief included a declaration from counsel that he had reviewed the record and had sent Jackson a letter advising him that such a brief would be filed and that he could file a supplemental brief if he chose to. On September 18, 2012, this court sent Jackson a letter advising him that a *Wende* brief had been filed and that he had 30 days to submit a brief raising any issues he wanted us to consider. Jackson did not file any such brief.

We have examined the entire record and are satisfied that Jackson's attorney has fully complied with his responsibilities and that no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259; *Wende, supra*, 25 Cal.3d 436.)

DISPOSITION

The judgment is affirmed.

RUBIN, ACTING P. J.

WE CONCUR:

FLIER, J.

GRIMES, J.