

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

CINDY ROA,

Defendant and Appellant.

B241487

(Los Angeles County
Super. Ct. No. BA383224)

APPEAL from a judgment of the Superior Court of Los Angeles County, Robert Perry, Judge. Affirmed.

Cindy Roa, in pro. per., and Maria Leftwich, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Cindy Roa appeals from the judgment entered following her conviction of possession for sale of methamphetamine. No meritorious issues have been identified following a review of the record by Roa's appointed counsel and our own independent review of the record and analysis of the contentions presented by Roa in a typed supplemental brief. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. Summary of Trial Evidence

On August 13, 2010, narcotics officers for the Montebello Police Department executed a search warrant on a house in which the owner, Cindy Roa and Roa's girlfriend were living. The officers encountered Roa coming out of a bedroom. The officers searched the bedroom and found, inside a cabinet, four individually wrapped small plastic bags containing 2.22 grams of methamphetamine, a digital scale, a box of small plastic bags, approximately \$130 in cash, and a college identification card and social security card issued to Roa. Inside or on top of the cabinet were two cell phones. On one of the cell phones were text messages indicating orders for illegal drugs. The officers also discovered a working surveillance camera that was trained on the driveway and could be monitored from the bedroom. Police arrested the three people found in the home.

Following her arrest, Roa was interviewed at the station. Detective William Molinari told Roa no charges would be filed against her if she agreed to act as an informant. After Roa agreed to become an informant, Molinari advised her of her right to remain silent, to the presence of an attorney and, if indigent, to appointed counsel (*Miranda v. Arizona* (1966) 384 U.S. 436 [86 S.Ct. 1602, 16 L.Ed.2d 694]), which Roa waived. Roa admitted orally and in writing that she had been selling methamphetamine for the last six months at her home. Roa then said the homeowner and her girlfriend were not involved with drugs or drug sales. Roa also said the cell phones belonged to her. At the conclusion of the interview, Molinari returned the cash and cell phones to Roa and released her from custody.

Roa reneged on her agreement with police, and was thereafter charged with possession for sale of methamphetamine (Health & Saf. Code, § 11378). At trial, Molinari opined, based on his training and experience, that Roa had possessed the methamphetamine for the purposes of sale.

Roa testified in her own defense that she was using methamphetamine at the time, but she never sold it. Roa claimed she agreed to cooperate with Molinari only because he had threatened to charge her girlfriend with methamphetamine possession if Roa refused to become an informant. Thereafter, Molinari dictated what Roa was to write in her statement. Roa testified the cell phones seized by police did not belong to her, and she had set up the surveillance camera to learn who had been slashing the tires of her car.

No other witnesses testified for the defense.

2. Pretrial and Trial Motions

Prior to trial, Roa filed a motion to unseal and quash the search warrant and to suppress evidence pursuant to *People v. Hobbs* (1994) 7 Cal.4th 948. Following an in camera hearing with Detective Molinari, the trial court denied the motion. The trial court also heard and denied Roa's motions *in limine*, requesting to be allowed to use abbreviated terminology in making constitutional objections, to refer to jurors by name rather than by identification number, and to exclude Roa's criminal record.

During trial, the trial court held an Evidence Code section 402 hearing on whether Roa's statements to law enforcement officers should be excluded because they were obtained in violation of her constitutional rights. Following testimony by Molinari and Roa and argument by counsel, the trial court expressly found Roa's testimony was not credible and denied the motion.

Over defense objections, the trial court granted the prosecution's motion to introduce text messages from the cell phone into evidence.

The trial court denied Roa's motions for judgment of acquittal (Pen. Code, § 1118.1).

3. *Verdict and Sentencing*

A jury convicted Roa as charged. At sentencing, the trial court placed Roa on three years of formal probation, on condition she serve 365 days in county jail, with 36 days of presentence custody credits.

We appointed counsel to represent Roa on appeal. After examination of the record counsel filed an opening brief in which no issues were raised. On December 11, 2012 we advised Roa she had 30 days within which to personally submit any contentions or issues he wished us to consider. We received a typed response, in which Roa challenges her conviction. Although none of Roa's claims presents an arguable issue, pursuant to *People v. Kelly* (2006) 40 Cal.4th 106, 110, 120-121, we identify Roa's contentions and explain the reasons they fail.

1. *The Pace of the Trial*

Roa contends the trial court wanted "to hurry through the trial" without allowing defense counsel to adequately represent her. Nothing in the record suggests that trial court rushed through the proceedings and that defense counsel was thereby pressured into providing ineffective assistance. Rather the record shows the trial court was mindful of the pace of the litigation and even-handedly exercised its inherent power to control the litigation before it. (See *In re Reno* (2012) 55 Cal.4th 428, 522 [trial courts have inherent power to exercise reasonable control over all proceedings connected with pending litigation to insure orderly administration of justice].)

2. *Substantial evidence*

In essence, Roa is arguing the evidence was insufficient to support the verdict in claiming her written statements to Molinari were coerced, the cell phone containing the text messages was not hers, and she possessed the methamphetamine for personal use. However, Molinari's testimony to the contrary constituted substantial evidence to support the jury's finding that Roa possessed the methamphetamine for purposes of sale. (See *People v. Zamudio* (2008) 43 Cal.4th 327, 357.) Determining witness credibility is the exclusive province of the trier of fact. (*People v. Maury* (2003) 30 Cal.4th 342, 403.)

(*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) Nothing in the record indicates Molinari's testimony was inherently improbable or physically impossible. (See *People v. Elwood* (1988) 199 Cal.App.3d 1365, 1372.)

We have examined the entire record and are satisfied Roa's attorney has fully complied with the responsibilities of counsel and no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly, supra*, 40 Cal.4th at pp. 112-113; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

DISPOSITION

The judgment is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

JACKSON, J.