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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.

MICHAEL SMITH,

Defendant and Appellant.

B257844

(Los Angeles County

Super. Ct. No. BA421248)

APPEAL from an order of the Superior Court of Los Angeles County.

David V. Herriford, Judge. Affirmed.

Hancock and Spears and Alan E. Spears, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On March 10, 2014, an information was filed charging appellant Michael Smith with one count of violation of Health and Safety Code section 11352, subdivision (a), transportation or sale of cocaine base. The information further alleged that between 2006 and 2011, appellant had suffered four prior convictions under Health and Safety Code section 11352 for purposes of Penal Code section 667.5, subdivision (b), and that between 2004 and 2011, he had suffered six prior convictions under Health and Safety Code sections 11351.5 and 11352 for purposes of Health and Safety Code section 11370.2, subdivision (a) and Penal Code section 1203, subdivision (e)(4).

Appellant pled not guilty. The court bifurcated the trial on the priors. Los Angeles Police Department Officer George Mejia testified that on February 5, 2014, he observed appellant sitting on a chair on a sidewalk near an intersection known for street-level narcotic sales. The officer saw a Hispanic man sit down beside appellant and engage in conversation. The man put currency on appellant's chair, and appellant picked it up and put it in his pocket. Appellant pulled a clear plastic bindle from his mouth, ripped it open and poured several pieces of a solid white substance into his hand. He gave one of the pieces to the man, who got up and walked away. Appellant put the other pieces back into the bindle and put the bindle back into his mouth. Another officer pursued and detained the Hispanic man. The officer observed the man drop a white substance to the ground just before being apprehended. It was later analyzed and determined to be .09 grams of cocaine base.

Officer Jorge Trejo detained appellant. Officer Trejo observed appellant attempting to swallow something. He asked appellant if he had anything in his throat and if he had swallowed any narcotics. Appellant responded he had swallowed a "\$10 rock." Officer Trejo searched appellant and recovered two 20-dollar bills, two five-dollar bills, and 11 one-dollar bills, but no narcotics. Officer

Trejo called an ambulance and appellant was transported to a hospital for examination.

The jury found appellant guilty of the sale of cocaine base. Appellant waived jury trial on the priors. The court found true the four priors pled pursuant to Penal Code section 667.5, subdivision (b) and five of the six priors pled pursuant to Health and Safety Code section 11370.2, subdivision (a). The court sentenced appellant to ten years in county jail, consisting of: the upper term of five years on count one, a consecutive three-year term under section 11370.2, subdivision (a), and two consecutive one-year terms under section 667.5, subdivision (b). The court suspended execution of half the sentence and ordered appellant to be placed on five years of mandatory supervision upon his release from jail. Appellant was given credit for 133 days of actual custody and 132 days for good time/work time for a total of 265 days of custody credit.

After examination of the record, appointed appellate counsel filed a 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. (See *Smith v. Robbins* (2000) 528 U.S. 259, 264.) On April 7, 2015, 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 to 442, and is satisfied appellant's attorney has fully complied with the responsibilities of counsel, and no arguable issues exist. Accordingly, we affirm the judgment of conviction.

**DISPOSITION**

The judgment is affirmed.

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MANELLA, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.