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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

JUAN CARLOS HERNANDEZ,

Defendant and Appellant.

B260955

(Los Angeles County  
Super. Ct. No. BA428929)

APPEAL from a judgment of the Superior Court of Los Angeles County,  
Craig J. Mitchell, 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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Defendant and appellant Juan C. Hernandez appeals from his plea of no contest to receiving stolen property (Pen. Code, § 496, subd. (a)).<sup>1</sup> We affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

On September 1, 2014, at approximately 10:30 a.m., Officer Seth Secor saw defendant walking towards him. Witnesses told the officer that for the past several weeks defendant had parked a moped in the area. Defendant would retrieve an object from the moped's seat compartment and walk away. The witnesses thought "it was possible narcotics activity." On this day, defendant's moped was lawfully parked, but the officer could see that the battery was disconnected. When defendant saw the officer, defendant "went behind" a parked vehicle. Defendant was detained. Officer Secor "conducted a pat down for safety to see if [defendant] had any weapons." When Officer Secor conducted the pat down, he asked if defendant had any weapons or sharp objects, and defendant said he had a razor blade in his pocket. The officer felt a "hard, rigid object" in defendant's pocket, which turned out to be a credit card in a name other than defendant's. A check in the name of Kate Redman was also recovered. Redman did not give anyone permission to have that check. Defendant admitted that his girlfriend stole mail from residences.

After a preliminary hearing, the trial court denied defendant's motion to suppress the physical evidence. (§ 1538.5.) But the court suppressed defendant's statements, under *Miranda v. Arizona* (1966) 384 U.S. 436. The court denied a motion to dismiss.

An information filed on October 28, 2014 alleged one count of receiving stolen property (§ 496, subd. (a)).<sup>2</sup> The information also alleged that defendant had three prior prison terms (§ 667.5, subd. (b)).

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<sup>1</sup> All further undesignated statutory references are to the Penal Code.

<sup>2</sup> While the case was pending, Proposition 47 was passed and became law. The crime was therefore deemed charged as a misdemeanor. The People did not contest the reduction.

On November 21, 2014, defendant was advised of and waived his right to a jury. He pleaded no contest to violating section 496, subdivision (a). The trial court suspended imposition of sentence, placed defendant on two years of summary nonreporting probation, and ordered him to serve 270 days in jail. He had 82 good time/work time credits for a total of 164 custody credits. The court imposed a \$150 restitution fine (§ 1202.4), a \$150 probation revocation fine (stayed) (§ 1202.44), a \$30 misdemeanor conviction assessment (Gov. Code, § 70373), and a \$40 court security fee (§ 1465.8, subd. (a)(1)).

### DISCUSSION

After review of the record, appellant's court-appointed counsel filed an opening brief which raised no issues and which asked this court to conduct an independent review of the record, under *People v. Wende* (1979) 25 Cal.3d 436, 441. By letter dated February 19, 2015, we advised appellant that he had 30 days to submit by brief or letter any contentions or argument he wished this court to consider. That letter was returned, unopened, to the court.<sup>3</sup>

A criminal defendant who appeals following a plea of no contest or guilty without a certificate of probable cause can only challenge the denial of a motion to suppress evidence or raise grounds arising after the entry of the plea that do not affect the plea's validity. (Cal. Rules of Court, rule 8.304(b).) The motion to suppress was properly denied. (*Terry v. Ohio* (1968) 392 U.S. 1; *People v. Osborne* (2009) 175 Cal.App.4th 1052, 1059-1060 & fn. 6; *People v. Limon* (1993) 17 Cal.App.4th 524, 535; see *U.S. v. Salas* (9th Cir. 1989) 879 F.2d 530, 535.) With respect to other potential sentencing or post-plea issues that do not in substance challenge the validity of the plea itself, we have examined the record and are satisfied appellate attorney has fully complied with the responsibilities of counsel and no arguable issue exists. (*People v. Kelly* (2006) 40 Cal.4th 106, 126; *People v. Wende, supra*, 25 Cal.3d at p. 441.)

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<sup>3</sup> The letter notifying appellant of appointed counsel was also returned to the court.

**DISPOSITION**

The judgment is affirmed.

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ALDRICH, J.

We concur:

EDMON, P. J.

EGERTON, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by Chief Justice pursuant to article VI, section 6 of the California Constitution.