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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.

TIMOTHY PEREZ,

Defendant and Appellant.

B265111

(Los Angeles County
Super. Ct. No. PA079007)

APPEAL from a judgment of the Superior Court of Los Angeles County. Monica Bachner, Judge. Affirmed with directions.

Richard L. Fitzer, under appointment by the Court of Appeal, and Timothy Perez, in pro. per., for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On November 12, 2013, two Los Angeles Police Department officers noticed a car driven by defendant Timothy Perez. The officers ran the license plate and discovered Perez had an outstanding misdemeanor warrant for driving with a suspended license. The officers stopped Perez's car on the freeway, arrested him on the basis of the warrant, and decided to impound his car. One of the officers moved the car off the freeway onto a street, where they conducted an inventory search, during which they found two plastic bags of methamphetamine.

Defendant challenged the validity of his arrest in a motion to suppress the physical evidence. He did not challenge the necessity for or propriety of the inventory search. In opposing the motion, the prosecutor presented the testimony of one of the two arresting officers about viewing on his patrol car's computer the outstanding warrant report before he and his partner stopped defendant's car. The officer further testified that when he and his partner returned to the station, they printed an abstract of the warrant and presented it to their supervisor, who approved booking defendant on the basis of the warrant. The prosecutor also introduced a printout of minute orders in Los Angeles Superior Court case No. 3DY04776 reflecting a bench warrant for defendant's arrest issued by Judge James Horan on August 28, 2013, after defendant failed to appear for arraignment that date. Subsequent minute orders from that case indicated the warrant was recalled on November 22, 2013, after defendant's arrest in this case. The trial court denied defendant's suppression motion.

Defendant thereafter pleaded no contest to a charge of violating Health and Safety Code section 11379,¹ transportation of methamphetamine for sale, and admitted an allegation pursuant to section 11370.2, subdivision (a) that he had a prior conviction for violating section 11378. In accordance with the terms of the plea agreement, the trial court sentenced him to a five-year jail term, with execution of one year suspended in favor of community supervision.

¹ Undesignated statutory references are to the Health and Safety Code.

Defendant filed a timely appeal. We appointed counsel to represent defendant on appeal. After examination of the record, counsel filed an opening brief, raising no issues and asking this court to independently review the record. Defendant filed his own supplemental brief, raising several issues.

First, defendant argues the prosecutor committed misconduct because a different prosecutor provided a “warrant abstract [that] was done between 10/16/14–12/16/14, and Perez’s warrant (CT page 58) did not reflect in the warrant abstract.” Defendant’s contention appears to pertain to matters outside the appellate record. The page of the Clerk’s Transcript he cites is another minute order in Case No. 3DY04776 reflecting a subsequent, post-conviction bench warrant for defendant issued on October 16, 2014. Thus, there were two bench warrants in the same case. The arresting officers relied upon the 2013 warrant, not the 2014 warrant. This does not constitute prosecutorial misconduct. Moreover, defendant’s supplemental brief admits, “There was a valid misdemeanor warrant.” Defendant also contends that the prosecutor engaged in misconduct because a defense exhibit from the suppression hearing is not in the Clerk’s Transcript on appeal. Omissions from the Clerk’s Transcript are not attributable to the prosecutor, who has nothing to do with its compilation.

Next, defendant contends the inventory search was unnecessary and improperly conducted. He forfeited these contentions by failing to raise them in his motion to suppress.

Defendant also contends, “The officer’s testimony on seeing the warrant on the screen is hearsay.” Defendant forfeited any evidentiary claim by failing to object during the hearing. Defendant makes further arguments about the contents of a “MDC printout,” “booking receipt,” and “paperwork from the Downey Courthouse,” none of which are part of the appellate record.

Defendant argues there was contradictory evidence regarding the quantity of methamphetamine. Any such contradiction is irrelevant, however, because defendant’s no contest plea constituted an admission of every element of the offense. He also argues

the probation report did not reflect his correct date of birth. This is not a basis for reversal of his conviction.

Defendant correctly observes that the abstract of judgment lists the incorrect offense, i.e., section 11378. Accordingly, we direct the trial court to issue an amended abstract of judgment to reflect the correct offense.

We have examined the entire record and are satisfied that defendant's attorney has 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. If it has not already done so, the trial court is directed to issue an amended abstract of judgment reflecting that defendant was convicted of violating Health and Safety Code section 11379.

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LUI, J.

We concur:

CHANEY, Acting P. J.

JOHNSON, J.