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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

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THE PEOPLE,

Plaintiff and Respondent,

v.

GREGORY ALLEN MILLER,

Defendant and Appellant.

C069890

(Super. Ct. No.  
CRF11031)

After the trial court denied his motion to suppress evidence (Pen. Code, § 1538.5) (section 1538.5), defendant Gregory Allen Miller pled no contest to driving under the influence of alcohol (Veh. Code, § 23152, subd. (a)), and admitted sustaining three prior convictions involving driving under the influence within the past 10 years (Veh. Code, § 23550). The trial court sentenced him to probation.

Defendant appeals, contending the trial court erred in denying his section 1538.5 motion because the deputy who detained him did not have probable cause to stop his car under

Vehicle Code section 5201 (section 5201), on which the deputy purported to rely. Disagreeing, we shall affirm the judgment.

**FACTUAL AND PROCEDURAL BACKGROUND<sup>1</sup>**

According to the affidavit of probable cause filed after defendant's arrest for driving under the influence, defendant's truck "had a ball hitch covering the rear plate" at the time of the stop. The California Highway Patrol (CHP) officer completing the affidavit added that defendant showed "all signs of intoxication" and failed his field sobriety tests.<sup>2</sup>

Defendant filed a section 1538.5 motion, wherein he argued that because his "license plate was in a position to be clearly visible as provided by law," he did not violate section 5201<sup>3</sup> and thus "the officer did not have the legal right to stop [defendant's truck]." The People did not file written opposition, but instead agreed with defendant to submit the motion to the trial court on the following factual stipulation: "[O]n December 31[], 2010, in the county of Yuba, the defendant

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<sup>1</sup> We include only those facts directly relevant to defendant's claim.

<sup>2</sup> The CHP officer also noted that defendant's front and rear license plates did not match; however, this point was not raised during the suppression hearing and was not addressed in the stipulated facts. The CHP officer arrested defendant at 2:10 a.m. on December 31, 2010.

<sup>3</sup> Section 5201 provides in relevant part: "License plates shall . . . be mounted in a position so as to be clearly visible, and . . . shall be maintained in a condition so as to be clearly legible."

was driving a pickup truck, which is pictured in . . . People's 1, when it was stopped by the Yuba County Sheriff's Office, Deputy Thornton, and this is what the deputy could view."<sup>4</sup>

The court accepted People's 1 into evidence. The People argued that section 5201 as construed by *People v. White* (2001) 93 Cal.App.4th 1022 (*White*), which we address *post* in our Discussion, provided the deputy with probable cause to stop the truck.

The trial court looked at the photograph, read the license number (6T36883) into the record, and obtained the parties' confirmation that the same license number appeared in the police report. Announcing that it was compelled by *White* to deny defendant's motion, the trial court purported to "make a factual finding that every single letter and all the digits on this license plate can be determined even with that ball in place."

#### **DISCUSSION**

Defendant contends the trial court erred in denying his motion because, as it found his license plate number was completely unobstructed, section 5201 does not apply. He adds that, so far as *White, supra*, 93 Cal.App.4th 1022, holds

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<sup>4</sup> We have closely examined People's 1. We note that the factual basis of the parties' stipulation is questionable: the photograph shows a very close view of a license plate, *appearing* to be no more than five feet away from the camera, which we highly doubt matches the deputy's view when following defendant's truck while driving in his own car in the middle of the night. However, for purposes of our holding, we assume the stipulation is accurate.

otherwise, it misconstrues the statute. The People counter that substantial evidence does not support the trial court's factual finding; consequently, *White* is on point and correctly construes section 5201.

As we will explain, here the trial court reached the correct result, despite its unsupported factual finding. Accordingly, we shall affirm. (See *California Aviation, Inc. v. Leeds* (1991) 233 Cal.App.3d 724, 731.)

## I

### *Standard of Review*

In reviewing the trial court's ruling on a motion to suppress, we defer to the court's factual findings if supported by substantial evidence, but exercise our independent judgment as to whether the search or seizure was constitutionally reasonable. (*People v. Glaser* (1995) 11 Cal.4th 354, 362.)

## II

### *The Factual Finding*

The parties presented only a photograph, People's 1, and a stipulation to the trial court. We assume the stipulation is accurate despite its clear deficiencies, which we have noted *ante*, and we examine the photograph closely. In doing so, we observe that the tow ball obscures the lower portion of at least one digit of the license plate, and arguably two, making two of the seven digits contained in the license plate difficult to decipher. Assuming the plate reads 6T36883, as did the parties and court, the fourth and fifth digits, "6" followed by "8," are partially blocked by the trailer ball, even at the short

distance and nearly straight-on angle shown in People's 1. The fact that the trial court could apparently deduce or determine the correct license plate number does not demonstrate that the plate was *completely unobstructed*. The numbers are partially obstructed. They are not clearly visible. Therefore, we decline to defer to the trial court's factual finding and conclude instead that its finding was not supported by substantial evidence, because the license number was partially obstructed under *White*, which we discuss immediately *post*.

### III

#### *Application of White*

##### A. *Holding*

In *White*, a photograph showed that a trailer hitch or tow ball on the defendant's truck's rear bumper "obscure[d] the lower half of the middle numeral on the rear license plate." (*White, supra*, 93 Cal.App.4th at p. 1024.) The trial court granted the defendant's motion to suppress, reasoning that section 5201 was meant to cover only situations where dirt or grime "completely obliterate[d]" the number. (*White, supra*, at p. 1024.) The appellate division of the superior court reversed the trial judge. The appellate court affirmed the reversal, holding that under the plain language of section 5201 "the view of the license plate [must] be *entirely unobstructed*." (*Id.* at p. 1025, italics added.)

The *White* court explained: "The words "clearly visible" are unambiguous. "Visible" means "capable of being seen," "perceptible to vision," "exposed to view," "conspicuous."

(Webster's 9th New Collegiate Dict. (1987) p. 1318.) The term "clearly" means "free from obscurity . . . unmistakable . . . unhampered by restriction or limitation." (*Id.* at p. 247.) In using the phrase "clearly visible" in . . . section 5201, it is apparent that the Legislature meant a license plate must not be obstructed *in any manner* and must be *entirely* readable. A license plate mounted in a place that results in it being partially obstructed from view by a trailer hitch ball violates . . . section 5201, and, thus, provides a law enforcement officer with a lawful basis upon which to detain the vehicle and hence its driver." (*White, supra*, 93 Cal.App.4th at p. 1026, italics added.) *White* is directly on point to this case.

*B. Overbreadth*

Defendant argues that *White's* construction of section 5201 is unreasonably broad and at odds with the Legislature's purpose in enacting the statute. We are not persuaded. Where the statutory language is clear and unambiguous, we presume the Legislature meant what it said and do not look behind the face of the statute to seek out some unexpressed intent. (*Lennane v. Franchise Tax Bd.* (1994) 9 Cal.4th 263, 268.) Like the *White* court, we find no ambiguity in the requirements that license plates shall be mounted so as to be "clearly visible" and maintained so as to be "clearly legible." (See also *People v. Duncan* (2008) 160 Cal.App.4th 1014, 1019 [upside-down plate, even if unobstructed, violates this provision].) Nor does

section 5201 contain any express exception to or qualification of those requirements for vehicles equipped with tow balls.<sup>5</sup>

*C. Arbitrariness*

Defendant asserts that the *White* court's reading of section 5201 could lead to unreasonable and arbitrary results because, echoing the trial court in this case: "even a license plate with a bare field and a personalized license plate with nothing in the middle and nothing obscured would still violate section 5201." We need not decide whether a license plate with "nothing obscured" could violate the statute as construed by *White*, because in this particular case two of the plate numbers were partially obscured, even in the close, clear, and well-lit view of the plate contained in People's 1.

Defendant adds that *White's* interpretation of section 5201 would allow officers to make arbitrary and unreasonable vehicle stops "even if they are able to read all the pertinent information on a license plate and identify the vehicle." As an example, defendant points to license plate frames, which "generally obstruct the outer edge of a license plate and do not fall within an exception in the statute."

In a closely related argument, defendant adds that *White's* construction of section 5201 "raises constitutional concerns"

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<sup>5</sup> Section 5201 exempts from its requirements under specified circumstances the use of license plate security covers, wheelchair lifts, or wheelchair carriers, even though they may temporarily obstruct part or all of a rear license plate. (§ 5201, subs. (f), (h).) There is no exemption for tow balls.

because it "would give law enforcement unbridled discretion that could be used to conduct arbitrary traffic stops in violation of the Fourth Amendment." This is so, according to defendant, because it would allow an officer to stop a vehicle under color of section 5201 "[even] if [the] officer can see and read the pertinent information on the license plate and identify the vehicle."

First, as we have explained, under section 5201 the "pertinent information on the license plate" includes the complete license number. Second, an officer's subjective motivation for a traffic stop is irrelevant to the stop's constitutional validity, so long as he or she has objectively reasonable grounds to believe a violation of the Vehicle Code has occurred. (*White, supra*, 93 Cal.App.4th at p. 1025; *Whren v. United States* (1996) 517 U.S. 806, 812-813 [135 L.Ed.2d 89, 97].)

*D. Section 4851*

To avoid these alleged problems with *White's* construction of section 5201, defendant argues we should read section 5201 in conjunction with section 4851, which provides: "Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, together with the word "California" or the abbreviation "Cal." and the year number for which it is issued or a suitable device issued by the department for validation purposes, which device shall contain the year number for which issued."

Defendant posits that which must be "clearly visible" and "clearly legible" on a rear license plate under section 5201 is only the information required to be displayed by section 4851, not the license number itself. We reject this argument because (1) the statutes are not cross-referenced on their face, (2) the statutes appear in different articles of the Vehicle Code, (3) defendant cites no authority supporting his reading, and (4) if the Legislature had meant section 5201 to cover only the requirements outlined in section 4851, it could have easily provided further guidance in that regard.

Because defendant's license plate number was obstructed within the meaning of section 5201, the deputy had probable cause to stop defendant's truck. The trial court reached the correct result when it denied defendant's motion to suppress.

**DISPOSITION**

The judgment is affirmed.

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DUARTE, J.

We concur:

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BLEASE, Acting P. J.

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MAURO, J.