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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

REYMOND JAVIER SANDOVAL,

Defendant and Appellant.

E054010

(Super.Ct.No. RIF152670,
RIF10000421)

OPINION

APPEAL from the Superior Court of Riverside County. Thomas D. Glasser, Judge. (Retired judge of the San Bernardino Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Jerry D. Whatley and David K. Rankin, under appointments by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Julie L. Garland, Senior Assistant Attorney General, and Scott Taylor and Nguyen Tran, Deputy Attorneys General, for Plaintiff and Respondent.

Police officers pulled over defendant Reymond Javier Sandoval because he failed to signal before a left turn and because he had a flickering brake light. The traffic stop led to a search in which 0.34 grams of cocaine were found.

Defendant contends that the traffic stop was invalid, because: (1) he was not required to use his turn signal, because no other vehicle was affected by his movement; and (2) a flickering brake light, standing alone, is not illegal.

We disagree. There was substantial evidence that defendant's left turn at least potentially affected the police officers' vehicle. Moreover, because defendant's brake light was flickering, there was probable cause to believe that it was malfunctioning, which is illegal. Accordingly, we will affirm.

I

PROCEDURAL BACKGROUND

Defendant was charged with one count of transportation of cocaine (Health & Saf. Code, § 11352, subd. (a)) and one count of simple possession of cocaine (Health & Saf. Code, § 11350, subd. (a)). Three prior drug-related conviction enhancements (Health & Saf. Code, § 11370.2, subd. (c)) and three prior prison term enhancements (Pen. Code, § 667.5, subd. (b)) were also alleged.

At the outset of trial, defendant made an oral motion to suppress. (Pen. Code, § 1538.5.) After an evidentiary hearing, the trial court denied the motion.

In a jury trial, defendant was found guilty as charged; the alleged enhancements were found true. Defendant's probation on a previous conviction for simple possession

of methamphetamine was revoked. Defendant was sentenced to a total of 15 years in prison, along with the usual fines and fees.

II

FACTUAL BACKGROUND

The following facts regarding the traffic stop are taken from the evidentiary hearing on defendant's motion to suppress.

On January 23, 2010, Officer Timothy Jensen was driving a marked patrol car; Officer Jeffery Putnam was his passenger.

Around 6:00 p.m., they were stopped at a stop sign on Campbell Avenue in Riverside. A brown Honda Civic turned left onto Campbell, without signaling. They followed it down Campbell, which was the way they were already headed.

Each rear-end light on the Civic consisted of a two bulbs under a red plastic cover. The outer lights were the brake lights; the inner lights were the "running lights," which came on whenever the headlights were on.

Officer Putnam noticed that the Civic's right brake light was "flickering . . . like it had a short." A couple of blocks later, the Civic turned right onto Mitchell Avenue. At that point, based on the failure to signal and the flickering brake light, the officers stopped the Civic.

As the Civic came to a stop, Officer Putnam noticed that the right brake light did not come on at all: "The brake light when it was depressed shorted . . . and illuminated the running light. So the running light, instead of running, would turn into the brake light."

A video of the traffic stop did not show the flickering. Officer Putnam explained, however, that his patrol car had a “low-light camera[,]” so that the reflection of the patrol car’s own lights of off the other car’s taillights wiped out the light from those taillights.

III

THE VALIDITY OF THE TRAFFIC STOP

“In ruling on a motion to suppress, the trial court must find the historical facts, select the rule of law, and apply it to the facts in order to determine whether the law as applied has been violated. We review the court’s resolution of the factual inquiry under the deferential substantial-evidence standard. The ruling on whether the applicable law applies to the facts is a mixed question of law and fact that is subject to independent review.’ [Citation.] On appeal we consider the correctness of the trial court’s ruling itself, not the correctness of the trial court’s reasons for reaching its decision.

[Citations.]” (*People v. Letner and Tobin* (2010) 50 Cal.4th 99, 145, italics omitted.)

A “traffic stop [may be] supported by reasonable suspicion of one or more Vehicle Code violations” (*People v. Saunders* (2006) 38 Cal.4th 1129, 1137.) Here, the police believed they had witnessed two separate violations.

First, they believed that defendant had violated the law by making a left turn without signaling.

Vehicle Code section 22107 prohibits “mov[ing a vehicle] right or left upon a roadway until . . . after the giving of an appropriate signal . . . *in the event any other vehicle may be affected by the movement.*” (Italics added.) Vehicle Code section 22108 provides, “Any signal of intention to turn right or left shall be given continuously during

the last 100 feet traveled by the vehicle before turning.” “Reading [Vehicle Code] sections 22107 and 22108 together, a motorist must continuously signal during the last 100 feet traveled before turning, but only in the event other motorists may be affected.” (*People v. Carmona* (2011) 195 Cal.App.4th 1385, 1394.)

Defendant therefore argues that there was insufficient evidence that his left turn affected any other vehicle.

“Actual impact upon another motorist is not required; a potential effect is sufficient to trigger the signal requirement. [Citation.]” (*People v. Durant* (2012) 205 Cal.App.4th 57, 63.) The vehicle affected may be “a patrol car, irrespective of the lack of any other traffic. [Citation.]” (*People v. Logsdon* (2008) 164 Cal.App.4th 741, 744, fn. omitted; accord, *People v. Miranda* (1993) 17 Cal.App.4th 917, 930.)

Here, defendant’s left turn did have a potential effect on the patrol car. If he was turning left, the patrol car could make a right turn; if he was going straight through, however, it could not move until he cleared the intersection. Even more generally, any driver at an intersection needs to understand which way any other cars at the intersection are going to move.

Defendant argues that the street that he was on dead-ended into Campbell, so that he could only have turned left. If it really was a dead end, however, defendant could have turned either right or left; if he turned right, he would have no actual effect on the patrol car, but if he turned left, it would have to wait for him. Thus, this would be an even stronger case for requiring defendant to signal. Actually, however, the video shows that intersection was not a dead end; a corner on the opposite side is clearly visible.

In sum, the officers had probable cause to believe that defendant was required to signal but failed to do so, in violation of Vehicle Code section 22107.

Second, the officers believed that defendant had violated the law because his brake light was flickering.

Defendant relies on Vehicle Code section 25251.5, subdivision (c), which provides that a brake light “may be equipped so as to flash not more than four times within the first four seconds after actuation by application of the brakes.” He argues that there was no evidence that his brake light flickered more than four times in four seconds. He also argues that the stop cannot be justified by the fact that the brake light eventually failed to come on at all, because Officer Putnam observed this only after the stop had already occurred.

It appears, however, that the brake light was flickering without any “application of the brakes.” Defendant was proceeding normally down Campbell; he had no need to brake. Rather, the light was flickering on and off all by itself.

The key point is not just that the brake light was *flickering*, but that it was *malfunctioning*. Under Vehicle Code section 24603, subdivision (a), a motor vehicle must be equipped with a brake light. (See also *People v. Watkins* (2009) 170 Cal.App.4th 1403, 1408.) In addition, under Vehicle Code section 24252, subdivision (a), “[a]ll lighting equipment of a required type installed on a vehicle shall at all times be maintained in good working order.” Evidently, defendant’s *left* brake light was functioning properly; when he braked, it came on and stayed on, and when he was not braking, it stayed off. By contrast, his *right* brake light was clearly malfunctioning.

Finally, in his reply brief, defendant argues that he was not violating any laws because, when he braked, the running light came on, even if the brake light did not; he cites Vehicle Code section 24252, subdivision (c), which provides that, subject to exceptions not relevant here, “Two or more lamp . . . functions may be combined” Once again, however, defendant’s right rear lights were behaving differently than his left rear lights. Accordingly, there was probable cause to believe that the right rear lights were malfunctioning, in violation of Vehicle Code section 24252, subdivision (a).

IV

DISPOSITION

The judgment is affirmed.

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RICHLI
J.

We concur:

McKINSTER
Acting P. J.

CODRINGTON
J.