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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.

GEORGE WAYNE SEYMOUR,

Defendant and Appellant.

E054990

(Super.Ct.No. RIF10003680)

OPINION

APPEAL from the Superior Court of Riverside County. Elaine M. Johnson,
Judge. Affirmed.

Gregory Marshall, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant George Wayne Seymour is serving a seven-year sentence (four years in
local custody and three years on supervised release) after pleading guilty to one count of
possessing methamphetamine for sale with enhancements.

FACTS AND PROCEDURE

On the evening of August 12, 2010, around 10:20 p.m., a City of Riverside police officer and his partner were patrolling a high-crime area when they noticed a car without a front license plate parked just off the pavement in a dirt area in front of a fenced residential yard. The officers decided to investigate the vehicle for having a missing license plate. Two men were standing just on the other side of the car near the open front passenger door. As the officer got out of the patrol car and approached, one of the men, defendant, quickly reached into the car through the front passenger door.

The officer spoke with defendant and noticed that he appeared nervous and sweating, and stared vacantly, as if he were under the influence of methamphetamine or alcohol. Defendant's pupils reacted slowly when the officer pointed his flashlight at defendant, which is another indication of methamphetamine intoxication. The officer asked defendant for permission to search him. Defendant consented. The officer found on defendant's person a cell phone that rang "continually," \$440 in cash, and the keys to the vehicle. Based on defendant's behavior and possessions, the officer believed defendant may be involved in drug sales, so he searched the car. The officer found drugs, a firearm and a car rental agreement in defendant's name.

The officer went to handcuff and arrest defendant. Defendant jumped over a fence and ran. Defendant continued to struggle after the officer had chased him down, until he lost consciousness from a carotid hold.

On September 8, 2010, the People charged defendant in count 1 with possessing methamphetamine for sale (Health & Saf. Code, § 11378), with allegations that he had a

prior such conviction (Health & Saf. Code, §11370.2) and that he was personally armed with a firearm (Pen. Code, § 12022); in count 2 with carrying a loaded firearm in a public place (Pen. Code, § 12031); in count 3 with being a felon in possession of a firearm (Pen. Code, § 12021); in count 4 with unlawfully possessing ammunition (Pen. Code, § 12316, subd. (b)(1)); in count 5 with being under the influence while possessing a loaded firearm (Health & Saf. Code, § 11550); and in count 6 with misdemeanor resisting a peace officer (Pen. Code, § 148). The People also alleged defendant had two prison term priors (Pen. Code, § 667.5).

On May 26, 2011, the trial court conducted a preliminary hearing and heard defendant's motion to suppress evidence (Pen. Code, § 1538.5). The trial court denied defendant's motion and held him to answer for the charges.

On October 26, 2011, defendant pled guilty to count 1, admitted the prior sales enhancement, and admitted the two prison priors. The trial court sentenced defendant to the midterm of two years on count 1, plus three years for the prior sales enhancement and one year each for the prison priors, for a total of seven years in county jail under Penal Code section 1170, subdivision (h). The court suspended execution of the last three years of the sentence, and ordered the three years to be served on supervised release.

This appeal followed, based on the denial of defendant's motion to suppress evidence. Defendant initially retained private counsel for the appeal. Counsel was later suspended from practice.

DISCUSSION

Upon defendant's request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d 493], setting forth a statement of the case, a summary of the facts and potential arguable issues, and requests this court to conduct an independent review of the record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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RAMIREZ

P. J.

We concur:

McKINSTER

J.

MILLER

J.