

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

PAUL MARTIN KUHLMAN,

Defendant and Appellant.

E066117

(Super.Ct.Nos. INF1301807,
INF1302022 & INF1500049)

OPINION

APPEAL from the Superior Court of Riverside County. Samuel Diaz, Jr., Judge.

Affirmed.

Elizabeth K. Horowitz, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Paul Martin Kuhlman appeals from the trial court's order finding him in violation of probation in case No. INF1301807. We find no error and affirm the judgment.

I

FACTUAL AND PROCEDURAL BACKGROUND¹

On January 12, 2013, an officer was driving in a marked patrol vehicle when he observed a blue Ford Mustang commit a Vehicle Code violation. The officer conducted a routine traffic stop of the vehicle and contacted the driver, identified as defendant. The officer was acquainted with defendant for previous drug-related contacts and defendant was a known drug dealer. Defendant's passenger was on active probation with search terms. The officer asked both occupants to exit the vehicle; and as the officer was conducting a patdown search on defendant, the officer found a pill bottle containing 0.4 grams of methamphetamine in defendant's waistband.

On July 16, 2013, a felony complaint was filed in case No. INF1301807, charging defendant with possession of methamphetamine (Health & Saf. Code, § 11377, subd. (a)).

On January 22, 2014, defendant pled guilty as charged and was placed on formal probation for a period of three years on various terms and conditions, including serving 90 days in county jail consecutive to his sentence in case No. INF1302022. The court also ordered defendant to pay a \$30 criminal conviction assessment fee (Gov. Code, § 70373); a \$40 court operations assessment fee (Pen. Code, § 1465.8); a \$300 restitution fine (Pen. Code, § 1202.4, subd. (b)); a booking fee of \$434.08 (Gov. Code, § 29550); a criminal laboratory analysis fee and assessment fee of \$240 (Health & Saf. Code,

¹ The factual background relating to the underlying offense in case No. INF1301807 is taken from the probation officer's report.

§ 11372.5); and a drug program fee and assessment fee of \$240 (Health & Saf. Code, § 11372.7). The court also imposed and stayed a \$300 probation revocation restitution fine (Pen. Code, § 1202.44), and ordered defendant to pay the cost of probation supervision and court-ordered drug testing.

On April 4, 2014, defendant violated the terms and conditions of his probation and was arrested for possession of a controlled substance for sale after investigating officers conducted a lawful search of defendant's room and found a pouch containing methamphetamine in a plastic brown bag along with items indicating indicia of drug sales. Specifically, officers found a small digital scale with methamphetamine residue on it, a small mirror with methamphetamine residue on it, some razors, several little plastic brown baggies, and a pouch with a magnet in it with loose particles of methamphetamine. Defendant was subsequently charged in case No. INF150049 with one count of felony possession of methamphetamine with the intent to sell in violation of Health and Safety Code section 11378. Defendant admitted to possessing the methamphetamine but claimed he possessed it for personal use and had no intent to sell it.

On July 7, 2015, as a result of that charge, defendant's probation was revoked in this case.

On April 14, 2016, a jury trial was held in case No. INF150049 concurrently with the violation of probation in this case. A mistrial was subsequently declared in case No. INF150049 after the jury was unable to reach a verdict. The trial court, however, found defendant in violation of his probation in this case for violating the law (term No. 1). The court also stated defendant was in violation of the probation term forbidding

him from possessing controlled substances, but the court did not have defendant's probation terms and could not recall the exact term number or language.

On May 16, 2016, defendant pled guilty to possession of methamphetamine for sale (Health & Saf. Code, § 11378) in case No. INF150049, and admitted that on January 22, 2014, he had previously been convicted of the same crime (Health & Saf. Code, § 11370.2)). Thereafter, defendant was immediately sentenced in case No. INF150049 to the total term of five years with a credit of 72 days for time served as follows: the middle term of two years, plus a consecutive term of three years for the prior conviction enhancement. Of those five years, the court sentenced defendant to one year in county jail, and the remaining four years on mandatory supervision. In case No. INF1302022, defendant was sentenced to the upper term of three years for violating Health and Safety Code section 11378 with one year served in county jail, and the remaining two years on mandatory supervision, concurrent with his sentence in case No. INF150049. In regard to defendant's violation of probation in this case, case No. INF1301807, defendant's felony possession of methamphetamine offense, was reduced to a misdemeanor pursuant to Penal Code section 1170.18. Defendant was thereafter sentenced to 364 days in county jail to be served concurrently with the above-two referenced matters. Defendant received 317 days of credit for time served, and was ordered to pay a \$300 restitution fine and court fees totaling \$70.

On May 25, 2016, defendant filed a timely notice of appeal with respect to the contested probation violation, case No. INF1301807.

II

DISCUSSION

After defendant appealed, upon his 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, setting forth a statement of the case, a summary of the facts and potential arguable issues, and requesting this court to conduct an independent review of the record.

We offered defendant an opportunity to file a personal supplemental brief, and he has not done so.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the entire record for potential error and find no arguable error that would result in a disposition more favorable to defendant.

III

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

RAMIREZ

P. J.

We concur:

MILLER

J.

SLOUGH

J.