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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

ALICIA DOMINGUEZ,

Defendant and Appellant.

F062645

(Super. Ct. No. VCF231205)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Tulare County. Darryl B. Ferguson, Judge.

Francine R. Tone, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Louis M. Vasquez and Rebecca Whitfield, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Cornell, Acting P.J., Gomes, J. and Franson, J.

An officer was dispatched to a supermarket parking lot where she met with a mother and daughter who reported an assault by three other women. The officer watched a surveillance video of a portion of the assault. The officer obtained an address for a suspect, Alicia Dominguez, and went to her home. While talking to two men who answered the door, the officer recognized Dominguez by her clothes, which were the same ones as in the surveillance video. The officer asked Dominguez several times to step outside. When she did not, the officer entered her home and arrested her without a warrant. Once outside her home, Dominguez made incriminating statements.¹ After the court denied her motion to suppress, she pled no contest to one count of assault likely to produce great bodily injury. On appeal, she challenges the court's denial of her motion. We affirm.

BACKGROUND

On February 26, 2010, a felony information charged Dominguez with assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1))² and alleged that the act resulted in great bodily injury. (§ 12022.7, subd. (a).) Following the denial of her motion to suppress, she pled no contest to assault likely to produce great bodily injury. (§ 245, subd. (a)(1).) On May 18, 2011, the court granted formal probation on condition of service of 180 days in jail and dismissed the great bodily injury allegation.

DISCUSSION

Dominguez argues that a police officer's entry into her home to arrest her without a warrant and without her consent violated her Fourth Amendment right against an unreasonable search and seizure. The Attorney General argues that since the arrest was supported by probable cause the warrantless arrest inside her home does not require the

¹ The discussion sets out additional facts, as relevant (*post*).

² All undesignated statutory references are to the Penal Code.

suppression of her postarrest statements outside her home. We agree with the Attorney General. (See, e.g., *New York v. Harris* (1990) 495 U.S. 14, 21 (*Harris*).)

The evidence that Dominguez characterizes as improper arose from statements she made outside her home after her warrantless arrest. Shortly before her arrest, Officer Carmen Esparza had been dispatched to a physical altercation in front of a supermarket where a woman told her that three other women had attacked her and her daughter. The mother told Esparza that she was leaving the store when one female approached her from behind and shoved her and her daughter, after which two other females ran up and assaulted them. Esparza then viewed the surveillance video and testified that the female who pushed the mother was wearing “a black jacket, like hood-type jacket with a dark reddish burgundyish color shirt and black pants.” The mother knew where the suspects lived and directed Esparza to a nearby home.

Two men opened the door for Esparza, who recognized Dominguez inside because she was wearing the same clothes as the female who shoved the mother in the surveillance video. Esparza testified that she asked Dominguez if she could come outside and talk. Dominguez refused, threatened to shut the door, and told Esparza that she “needed a warrant.” Esparza told Dominguez she was placing her under arrest, went into her home, and arrested her.

Afterward, Esparza testified, she brought Dominguez outside her home and informed her of her *Miranda*³ rights. Dominguez then told Esparza that the mother and daughter had been harassing Dominguez and her daughters and that if the mother and daughter kept it up “they were gonna handle it out on the street.” Dominguez told Esparza that she didn’t “give a Fuck” and “beat the F” out of the daughter. Another police officer testified that the daughter had a cut and a bruise and a large amount of

³ *Miranda v. Arizona* (1966) 384 U.S. 436.

scalp showing from her hair having been pulled out. Both the mother and daughter separately identified Dominguez as the woman who attacked them.

The Fourth Amendment prohibits the police from making a warrantless and nonconsensual entry into a suspect's home in order to make a routine felony arrest. (*Payton v. New York* (1980) 445 U.S. 573, 576 (*Payton*)). However, where police have probable cause to arrest a suspect, the exclusionary rule does not bar the use of statements made by the defendant outside his or her home, even though the statements are taken after an arrest made inside the home in violation of *Payton*. (*Harris, supra*, 495 U.S. at p. 21.)

As a general rule, where there is probable cause to arrest, the fact that police illegally enter a home to make a warrantless arrest neither invalidates the arrest nor requires suppression of any postarrest statements the defendant makes. (*People v. Watkins* (1994) 26 Cal.App.4th 19, 29, citing *People v. Marquez* (1992) 1 Cal.4th 553, 568-569.) That is so here. Since the postarrest statements Dominguez made were outside her home, the court properly denied her motion to suppress.⁴

DISPOSITION

The order is affirmed.

⁴ Our holding moots the Attorney General's alternative argument that the warrantless arrest was reasonable because the officer entered the home in an emergency situation to prevent the destruction of evidence.