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

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMES MILES,

Defendant and Appellant.

F063332

(Super. Ct. No. VCF254721)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Tulare County. Ronn Couillard, Judge. (Retired judge of the Tulare Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.)

Allan E. Junker, 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, Carlos A. Martinez and Wanda Hill Rouzan, Deputy Attorneys General, for Plaintiff and Respondent.

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\* Before Cornell, Acting P.J., Kane, J. and Detjen, J.

## **INTRODUCTION**

Appellant James Miles pled no contest to one count of unlawful taking of a vehicle and admitted several enhancements. At the time of his plea, both Miles and the People stipulated that a factual basis for the plea was contained in the trial court's file. Miles now contends that the trial court failed to establish a factual basis for his plea and consequently the judgment must be reversed. We disagree and will affirm.

## **FACTUAL AND PROCEDURAL SUMMARY**

On July 12, 2011, the Tulare County District Attorney filed a criminal complaint charging Miles with one count of unlawful taking of a vehicle pursuant to Vehicle Code section 10851, subdivision (a) and one count of receipt of stolen property pursuant to Penal Code section 496d, subdivision (a).<sup>1</sup> With respect to both counts, it was alleged that Miles had sustained one prior conviction for a serious or violent felony within the meaning of sections 667, subdivisions (b) through (i) and 1170.12, subdivisions (a) through (d). It also was alleged that Miles had served four prior prison terms within the meaning of section 667.5, subdivision (b) and had four prior convictions within the meaning of section 666.5. Lastly, the People alleged that Miles had been convicted of seven prior felonies within the meaning of section 1203, subdivision (e)(4).

The complaint alleged that on or about July 8, 2011, Miles unlawfully took and drove a 2002 Honda Accord, license number 4UXJ578, belonging to J.T. and J.A. without their consent. It also alleged that the taking was done with the intent to permanently or temporarily deprive the owners of the vehicle.

Miles initially entered a plea of not guilty to both counts and denied all enhancements and special allegations. On July 14, 2011, Miles changed his plea to no contest as to the charge of unlawful taking of a vehicle and admitted enhancements pursuant to sections 666.5, 667.5, subdivision (b), and 1170.12, subdivisions (a) through

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<sup>1</sup>All further statutory references are to the Penal Code.

(d). Both Miles and the People stipulated that a factual basis for the plea was contained in the trial court's file. In exchange for the plea, the People dismissed the receipt of stolen property count and all allegations and enhancements appended thereto.

Miles requested immediate sentencing. The trial court denied probation and imposed a two-year term for the offense, doubled pursuant to section 1170.12, subdivisions (a) through (d), and one year for the prior prison term enhancement, for a total aggregate term of five years. In addition, various fines and fees were imposed.

On September 15, 2011, Miles filed a notice of appeal and a request for a certificate of probable cause. That same day the trial court granted the request for a certificate of probable cause.

### **DISCUSSION**

Miles contends the trial court failed to establish a valid factual basis for his plea in accordance with section 1192.5. Section 1192.5 provides, in relevant part: "Upon a plea of guilty or nolo contendere to an accusatory pleading charging a felony,... [¶] ... [¶] ... The court shall also cause an inquiry to be made of the defendant to satisfy itself that the plea is freely and voluntarily made, and that there is a factual basis for the plea." Miles is mistaken; the trial court established an adequate factual basis for his plea.

Section 1192.5 requires only that a prima facie factual basis be established for the charge. (*People v. Holmes* (2004) 32 Cal.4th 432, 441 (*Holmes*)). A trial court's factual determination that a prima facie factual basis exists will be overturned only upon a showing of an abuse of discretion. (*Id.* at p. 443.)

The parties stipulated that the trial court's file contained a factual basis for the plea. Miles contends that this was insufficient and that a valid factual basis is shown only if specific documents are identified. Without a reference to specific documents, Miles contends the judgment must be reversed. In support of this contention, he cites *Holmes, supra*, 32 Cal.4th at page 442. *Holmes*, however, imposes no such requirement.

In *Holmes*, the California Supreme Court stated that defense counsel may stipulate to a “particular document that provides an adequate factual basis.” (*Holmes, supra*, 32 Cal.4th at p. 442.) A trial court’s acceptance of a plea, however, is reviewed for an abuse of discretion. (*Id.* at p. 443.) Any error in applying the section 1192.5 standard is “harmless where the contents of the record support a finding of a factual basis.” (*Holmes*, at p. 443.)

Regardless of whether defense counsel was required to reference a specific document in the record when stipulating there was a factual basis for the plea, the record does contain documents that support a factual basis for the plea, so any error was harmless. (*Holmes, supra*, 32 Cal.4th at p. 443.) Here, the complaint, which was a part of the trial court’s record, included specific information as to the date of the offense, specifically described the make, model and license number of the vehicle unlawfully taken, identified the true owners of the vehicle, and stated that Miles intended to permanently or temporarily deprive the owners of the vehicle.

This excerpt from the complaint provides a “concrete set of facts in the record, which can be reviewed by the appellate court to determine its adequacy.” (*People v. Willard* (2007) 154 Cal.App.4th 1329, 1335.) Unlike the factual situation in *Willard*, the complaint filed against Miles included more than the name of the victim and the language of the statute; it provided specifics on the make, model and license number of the vehicle, and the date of the offense. (*Ibid.*)

Section 1192.5 requires only that a prima facie factual basis for the charges be established, and the specificity contained in the complaint filed against Miles was sufficient to establish a prima facie factual basis. (*Holmes, supra*, 32 Cal.4th at p. 441.) Any error in failing to specifically reference the complaint at the time the plea was entered is harmless. (*Id.* at p. 443.)

## **DISPOSITION**

The judgment is affirmed.