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

THE PEOPLE,

Plaintiff and Respondent,

v.

RUSTY LEE JOSEPH SALDIVAR,

Defendant and Appellant.

F067515

(Super. Ct. No. F11906629)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Fresno County. Jonathan M. Skiles, Judge.

David L. Annicchiarico, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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\* Before Levy, Acting P.J., Poochigian, J. and Peña, J.

Appellant Rusty Lee Joseph Saldivar pled no contest to evading a police officer (count 1/Veh. Code, § 2800.2, subd. (a)), possession of a firearm by a felon (count 2/former Pen. Code, § 12021, subd. (a)(1)),<sup>1</sup> and possession of methamphetamine (count 4/Health & Saf. Code, § 11377, subd. (a)). Saldivar also admitted four prior prison term enhancements (§ 667, subd. (b)) and allegations that he had a prior conviction within the meaning of the three strikes law (§§ 667, subds. (b)–(i), 1170.12, subds. (a)–(d)). Following independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

On November 16, 2011, at approximately 4:15 p.m., a Fresno police officer heard loud music coming from a car driven by Saldivar. After noticing that the car had a modified exhaust, the officer decided to conduct a traffic stop and followed Saldivar into a cul-de-sac. Saldivar made a U-turn and as he drove past the officer, the officer yelled at him to pull over. Saldivar replied, “Okay, Okay” but accelerated and sped off at a high rate of speed and he failed to yield at stop signs as he was pursued by the officer. The pursuit ended when Saldivar’s vehicle apparently experienced mechanical problems and stopped. Saldivar was then taken into custody.

During a search of Saldivar’s car, officers found a black briefcase that contained a .25-caliber handgun with no ammunition and two plastic bags containing a total of eight grams of marijuana. In the car’s interior, the officers found a plastic bag containing 10 grams of methamphetamine and a bindle containing an additional 13 grams of marijuana. During a search of Saldivar, the officers found \$1,325 and several counterfeit bills.

On March 14, 2013, after the prosecutor amended count 4 to allege simple possession of methamphetamine (Health & Saf. Code, § 11377, subd. (a)), Saldivar pled

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<sup>1</sup> All further statutory references are to the Penal Code, unless otherwise indicated.

no contest to counts 1, 2, and 4, as amended, and he admitted the prior prison term enhancements and the allegations that he had a prior conviction within the meaning of the three strikes law. In exchange for his plea, Saldivar was promised a stipulated prison term of five years and the prosecutor agreed to dismiss the remaining counts and allegations and two unrelated cases.

On May 3, 2013, the court sentenced Saldivar to an aggregate five-year term per his negotiated plea, the middle term of two years on count 1, doubled to four years because of Saldivar's prior strike conviction, a concurrent doubled middle term of four years on count 2, a concurrent doubled middle term of four years on count 4, and a one-year prior prison term enhancement.

Saldivar's appellate counsel has filed a brief that summarizes the facts, with citations to the record, raises no issues, and asks this court to independently review the record. (*People v. Wende, supra*, 25 Cal.3d 436.) Saldivar has not responded to this court's invitation to submit additional briefing.

Following an independent review of the record we find that no reasonably arguable factual or legal issues exist.

#### **DISPOSITION**

The judgment is affirmed.