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

THE PEOPLE,

Plaintiff and Respondent,

v.

JEFFREY DURGIN,

Defendant and Appellant.

F069159

(Super. Ct. No. BF151087A)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. Michael G. Bush, Judge.

Theresa Osterman Stevenson, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Michael P. Farrell, Assistant Attorney General, Catherine Chatman and Raymond L. Brosterhous II, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Kane, Acting P.J., Poochigian, J. and Smith, J.

INTRODUCTION

On February 7, 2014, defendant entered a plea of no contest to one count of transportation of methamphetamine (count 3/Health & Saf. Code, § 11379, subd. (a)) and one count of possession of a firearm by a felon (count 5/Pen. Code, § 29800, subd. (a)(1)). Pursuant to the plea, the court sentenced defendant to a prison term of four years eight months. On appeal, defendant asks that we review the sealed transcripts of the court's in camera review of the arresting police officer's personnel files to determine if all *Pitchess*¹ material was properly disclosed. We find no error, and affirm the judgment in all respects.

FACTS²

On the night of October 7, 2013, Officer Christopher Messick was on patrol when he observed defendant riding a bicycle without any illumination device. Messick attempted to initiate an enforcement stop on defendant, but defendant pedaled away, and attempted to manipulate something in his rear pants pocket. Messick pursued defendant in his patrol car until defendant attempted to double back, at which point Messick exited his patrol car and stopped defendant by grabbing the handlebars on the bicycle and pulling it out from under defendant.

After stopping the bicycle, Messick conducted a pat down search, which uncovered a firearm in defendant's rear pants pocket, as well as heroin, methamphetamine, and marijuana in defendant's shirt pocket. A subsequent search of defendant's backpack yielded ammunition, additional quantities of methamphetamine and heroin, a cellular phone, currency, a digital scale, and empty Ziploc baggies.

¹ *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

² There was no trial in this case, but the parties stipulated that the transcript of the preliminary hearing and the law enforcement reports would provide the factual basis for defendant's plea. Accordingly, the facts in this opinion are drawn from those sources.

DISCUSSION

Following his preliminary hearing, defendant filed a *Pitchess*³ motion seeking the disclosure of any materials within Messick's personnel file relating to "(1) false statements in reports, (2) fabrication of witness testimony in reports, (3) false testimony, (4) falsification of probable cause, (5) acts involving moral turpitude, (6) any other evidence of or complaints of dishonesty, (7) excessive force, (8) aggressive conduct, (9) unnecessary violence, and (10) unnecessary force" The court granted defendant's motion for *Pitchess* discovery and, after an in camera review of Messick's personnel files, ordered the release of some relevant information.

On appeal, defendant requests that we review the in camera proceedings to determine if the trial court followed appropriate procedures and released all relevant *Pitchess* material. Having examined the sealed record, we conclude that the trial court reviewed the relevant files and adequately stated the contents of those files for the record. We also conclude the trial court did not abuse its discretion in finding no discoverable materials. (*Alford v. Superior Court* (2003) 29 Cal.4th 1033, 1039 [standard of review].) Accordingly, defendant is not entitled to any further relief.

DISPOSITION

The judgment is affirmed.

³ See *Pitchess, supra*, 11 Cal.3d 531. The California Legislature codified the privileges and procedures set out in *Pitchess* through the enactment of Penal Code sections 832.7 and 832.8 and Evidence Code sections 1043 through 1045. (*City of Santa Cruz v. Municipal Court* (1989) Cal.3d 74, 81.)