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

THE PEOPLE,

Plaintiff and Respondent,

v.

TERESA LYNN CRAVENS,

Defendant and Appellant.

F070787

(Kern Super. Ct. No. MF011205A)

**OPINION**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Kern County. David R. Lampe, Judge.

Elizabeth J. Smutz, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Michael P. Farrell, Assistant Attorney General, Julie A. Hokans and Clara M. Levers, Deputy Attorneys General, for Plaintiff and Respondent.

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\* Before Gomes, Acting P.J., Peña, J. and Smith, J.

On November 26, 2014, a jury convicted appellant Teresa Lynn Cravens of possession of methamphetamine (Health & Saf. Code, § 11377, subd. (a)). On January 5, 2015, the court placed Cravens on probation for three years on the condition she complete 120 days in the sheriff's work release program.

On appeal, Cravens contends the court abused its discretion when it denied her motion to suppress. Cravens also asks this court to examine the transcript of an in camera hearing the trial court conducted pursuant to her *Pitchess*<sup>1</sup> motion. We have conducted the requested review and affirm the judgment.

### **FACTS**

On May 1, 2014, police officers arrested Cravens after responding to a residence on a disturbance call and finding a small baggie containing methamphetamine and one containing marijuana in a small purse and several baggies containing more methamphetamine in a garage.

On July 7, 2014, the district attorney filed an information charging Cravens with possession for sale of methamphetamine. (Health & Saf. Code, § 11378.)

On July 28, 2014, Cravens filed a motion to suppress seeking suppression of the drugs found in the two locations noted above.<sup>2</sup>

On July 30, 2014, Cravens filed a *Pitchess* motion.

On August 11, 2014, the district attorney amended the information to allege a count of simple possession of methamphetamine. Afterwards, the court heard Cravens's suppression motion. During the hearing California City Police Officer Vincente Rivera testified that on May 1, 2014, at approximately 8:40 p.m., he responded to Vera Stover's residence. Stover told the officer that she had been involved in a physical altercation

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<sup>1</sup> *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

<sup>2</sup> Although the motion listed the baggies found in the garage as evidence that should be suppressed, it challenged only the search of the purse.

with Cravens, her daughter. Officer Rivera contacted Cravens inside a garage by an enclosed area. He asked her for identification and Cravens responded that it was in the car. As they walked toward a car that was parked in front of the residence, Officer Rivera saw Cravens drop a small brown purse on the ground.

Officer Rivera picked up the purse and asked Cravens if it was hers; she replied it was not. The officer looked inside the purse and saw two small baggies, one containing suspected methamphetamine and another containing suspected marijuana. Officer Rivera asked Cravens if the drugs belonged to her and she denied they did.

After seizing the purse, Officer Rivera spoke with Stover who told him Cravens slept in the garage and in a bedroom inside the residence. Officer Rivera asked Stover for permission to search the residence. Stover told Officer Rivera she owned the residence and the garage and that he had permission to search the garage. Officer Rivera and his partner searched a small area in the garage that was “enclosed off.” On a couch they found a bag containing 12 small baggies that each contained methamphetamine. Cravens was in the back of the police car during the search of the garage and did not object to the search.

The prosecutor argued that the search of the purse was lawful because Cravens abandoned the purse when she dropped it. He argued the search of the garage was lawful because the owner consented and Cravens did not object. Defense counsel argued the search of the purse was unlawful because Officer Rivera did not have probable cause to arrest Cravens when he searched it. Defense counsel, however, did not address the search of the garage. In denying the motion, the court implicitly found Cravens abandoned the purse when it noted that Cravens “indicated ... essentially [that] the purse was not hers.” It also expressly found that the search of the garage was lawful because the owner consented to the search.

## DISCUSSION

### *The Suppression Motion*

#### **The Search of the Purse**

“In ruling on a motion to suppress, the trial court is charged with (1) finding the historical facts; (2) selecting the applicable rule of law; and (3) applying the latter to the former to determine whether or not the rule of law as applied to the established facts has been violated. [Citation.] On appeal, we review the trial court’s resolution of the first inquiry, which involves questions of fact, under the deferential substantial-evidence standard, but subject the second and third inquiries to independent review. [Citations.]

“The Fourth Amendment to the federal Constitution guarantees against unreasonable searches and seizures by law enforcement and other government officials. . . . ¶ It has long been settled, however, that a warrantless search and seizure involving abandoned property is not unlawful, because a person has no reasonable expectation of privacy in such property. [Citations.] . . .

“ ‘[T]he intent to abandon is determined by objective factors, not the defendant’s subjective intent. “ ‘Abandonment is primarily a question of intent, and intent may be inferred from words, acts, and other *objective* facts. [Citations.] Abandonment here is not meant in the strict property-right sense, but rests instead on whether the person so relinquished his interest in the property that he no longer retained a reasonable expectation of privacy in it at the time of the search.’ ” [Citations.]’ ‘The question whether property is abandoned is an issue of fact, and the court’s finding must be upheld if supported by substantial evidence.’ ” (*People v. Parson* (2008) 44 Cal.4th 332, 345-346.)

After seeing Cravens drop the purse, Officer Rivera picked it up and, before searching it, asked Cravens if it belonged to her. Cravens denied that it did. Thus, the record contains substantial evidence that supports the court’s implicit conclusion that Cravens abandoned the purse which had been in her possession.

Cravens contends it was unclear from Officer Rivera’s testimony whether he first saw the contents of the purse or first asked Cravens whether the purse was hers. Nevertheless, in order to argue that the seizure and search of the purse occurred before she abandoned it, she cites the following testimony by Officer Rivera during cross-

examination to assert that Officer Rivera searched the purse before asking Cravens if it belonged to her:<sup>3</sup>

“DEFENSE COUNSEL: And you say you saw this brown bag in her hand fall out; right?”

“RIVERA: Correct.

“DEFENSE COUNSEL: And you picked it up right away?”

“RIVERA: Yes.

“DEFENSE COUNSEL: And you opened it?”

“RIVERA: Yes.

“DEFENSE COUNSEL: And you went inside it?”

“RIVERA: Yes.

“DEFENSE COUNSEL: Okay. And did you pick it up immediately after she dropped it?”

“RIVERA: *She drop[p]ed it, I shined my light on it, and then I asked if it was hers.*

“DEFENSE COUNSEL: *And you picked it up and searched it?*

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<sup>3</sup> Respondent argues Cravens did not have standing to contest the search of the purse because she denied the purse belonged to her when asked by Officer Rivera and during the hearing on the suppression motion she blurted out that it was not her purse. In *People v. Ayala* (2000) 23 Cal.4th 225, 254 and footnote 3, our Supreme Court stated, “It should be noted that since *Rakas v. Illinois* (1978) 439 U.S. 128, the United States Supreme Court has largely abandoned use of the word “standing” in its Fourth Amendment analyses. (See *Minnesota v. Carter* (1998) 525 U.S. 83, 87.) It did so without altering the nature of the inquiry: whether the defendant, rather than someone else, had a reasonable expectation of privacy in the place searched or the items seized. Despite the federal high court’s change in terminology, some California cases have continued to use the word “standing” in discussing the Fourth Amendment. ... ¶ In the future, to avoid confusion with the federal high court’s terminology, mention of ‘standing’ should be avoided when analyzing a Fourth Amendment claim.” (*Id.* at p. 254.) ¶ In accord with *Ayala*, we analyze the denial of Cravens’s suppression motion without referring to “standing.”

“RIVERA: *Yes.*” (Italics added.)

It is clear, even from the italicized portion of this brief exchange, that Cravens denied the purse belonged to her before Officer Rivera searched it. In any event, on direct examination Officer Rivera testified that after observing Cravens drop the purse, he picked it up, asked if it was hers, and Cravens denied owning it. Officer Rivera was then asked if he searched the purse and he replied that he did. The court could reasonably conclude from Officer Rivera’s direct examination testimony that Cravens denied the purse belonged to her before Officer Rivera searched it. Further, to the extent the testimony cited by Cravens conflicts with Officer Rivera’s direct examination testimony, we are bound to resolve conflicts in the evidence in favor of the superior court’s ruling denying the motion. (*People v. Woods* (1999) 21 Cal.4th 668, 673 [“[‘A]ll factual conflicts must be resolved in the manner most favorable to the [superior] court’s disposition on the [suppression] motion’ ”].) Thus, we conclude that Officer Rivera’s search of the purse was lawful.

### **The Search of the Enclosed Area of the Garage**

“With regard to a warrantless search of property, it is well settled that such is reasonable under the Fourth Amendment where proper consent is given. [Citation.] Where the subject property is a premises occupied by more than one person, a search will be reasonable if consent is given by one of the joint occupants ‘who possessed common authority over or other sufficient relationship to the premises or effects sought to be inspected.’ (... *People v. Bishop* (1996) 44 Cal.App.4th 220, 236 [co-occupants who have joint access or control to property assume the risk police may be permitted to search by one such co-occupant sharing the property].) This is so, even where the defendant has not consented to the search.” (*People v. Oldham* (2000) 81 Cal.App.4th 1, 9-10.)

In *People v. Williams* (1999) 20 Cal.4th 119 the court held that “once the prosecution has offered a justification for a warrantless search or seizure, defendants must present any arguments as to why that justification is inadequate. [Citation.]

Otherwise, defendants would not meet their burden under section 1538.5 of specifying why the search or seizure without a warrant was ‘unreasonable.’ ” (*Id.* at p. 130.)

Officer Rivera testified that Stover, the owner of the garage, gave the officers permission to search the garage. Cravens contends that Stover’s consent was invalid because Cravens was placed in a police car to avoid her objection. Cravens forfeited this issue on appeal because she did not raise it in the trial court. (*People v. Williams, supra*, 20 Cal.4th at p. 130.)

However, even if this issue were properly before us, we would reject it because the evidence failed to show that in searching the garage, the officer violated Cravens’s expectation of privacy. The testimony at the suppression hearing established only that Cravens, at times, slept in a bedroom inside the residence and at other times in the garage. There was no evidence establishing how often Cravens slept in the garage, when she slept there last, how many enclosed areas the garage had, or whether the enclosed area in which the officer found the methamphetamine was where Cravens would sleep. Thus, we conclude that the court did not abuse its discretion when it denied Cravens’s suppression motion.<sup>4</sup>

### ***The Pitchess Motion***

On July 30, 2014, Cravens filed a *Pitchess* motion seeking discovery from police files and records of any evidence or complaints of: “(1) Dishonesty, (2) false arrest, (3) false statements in reports, (4) false claims of probable cause to search or arrest, (5) fabrication of charges and/or evidence, (6) misstating, omitting, withholding evidence

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<sup>4</sup> In arguing that the search of the garage was unlawful Cravens cites to facts that were not established by evidence presented during the suppression hearing, e.g., that Stover told the officer that Cravens “lived in the garage” and that Cravens was “a member of the household who regularly slept in the garage and kept her personal belongings” there. We do not consider these facts in resolving Cravens’s appeal, however, because our review is confined to the evidence presented at the suppression hearing. (See *In re Arturo D.* (2002) 27 Cal.4th 60, 77, fn. 18.)

or the circumstances or conditions of evidence, (7) false testimony, and (8) excessive force” by Officer Rivera.

On September 4, 2014, the court granted the motion with respect to records of dishonesty and excessive force and it conducted an in camera review of personnel records for Officer Rivera provided by the California City Police Department. The court, however, did not find any discoverable records.

Cravens has asked this court to review the sealed transcript of the in camera hearing to determine whether the trial court abused its discretion in refusing to disclose information in Officer Rivera’s personnel file. The People concede such review is proper. (*People v. Mooc* (2001) 26 Cal.4th 1216, 1229.) We have conducted an independent review of the record of the in camera hearing, including the records produced, and based on that review conclude there was no abuse of discretion.

#### **DISPOSITION**

The judgment is affirmed.