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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

SAMUEL FAUSTO URIBE,

Defendant and Appellant.

G046246

(Super. Ct. No. 11NF2333)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Steven D. Bromberg, Judge. Affirmed.

Paul Stubb, Jr., under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

* * *

At 7:00 on a summer evening, Officers Rodriguez and Garcia of the Fullerton Police Department drove past Samuel Fausto Uribe's legally parked car. They stopped, returned to the car, and approached Uribe, who was sitting in the driver's seat.

Uribe produced identification, but he had no driver's license and his passenger had no identification whatsoever. Both denied being on probation or parole. When Garcia asked permission to search the car, Uribe gave it. A cursory search of the car turned up a baggie containing 13 grams of methamphetamine (worth \$1,100-\$1,200 on the street) and a digital scale.

At the hearing on his motion to suppress this evidence, Uribe testified that when the police drove up, he and his passenger were waiting for "Leo" to join them to play soccer. He could not provide a last name, address, or telephone number for Leo, and Leo did not appear at the motion or trial.

At trial, Uribe admitted possession of the methamphetamine, but said he and his passenger had purchased it two days earlier and had no intention of selling it. It was for personal use, as Uribe had a heavy meth habit.

The jury convicted Uribe of possession for sale, and he was placed on probation and ordered to serve 212 days in jail. He appealed this conviction, and counsel was appointed to represent him. Counsel did not argue against his client, but advised this court he could find no issues to argue on appellant's behalf – despite diligent efforts that included a motion to augment the record. Counsel filed a brief which set forth the facts of the case and the only points counsel could imagine would support an appellate issue: denial of the motion to suppress evidence and insufficiency of the evidence to prove Uribe's possession was with the intent to sell the drug. (*People v. Wende* (1979) 25 Cal.3d 436.)

Uribe was given 30 days to file written argument in his own behalf. That time passed and no brief was filed. It has now been almost 60 days since that time expired.

We have examined the record and find nothing to suggest error in the denial of Uribe's motion to suppress evidence. Police need no justification for approaching citizens and talking to them. (*People v. Rivera* (2007) 41 Cal.4th 304; *People v. Harris* (1986) 184 Cal.App.3d 1319.) Nor does a request for identification change such consensual encounters to detentions. (*People v. Lopez* (1989) 212 Cal.App.3d 289, 292-293.) While there was no reason to suspect Uribe of any crime when he was first contacted, no reason was required. Nothing was done to suggest to him that he was not free to leave. We can find no Fourth Amendment violation.

Nor can we find any infirmity in the request for and receipt of permission to search Uribe's car. No one contested the police version of the facts constituting the basis for the search, and, as related, it was unobjectionable. So the motion to suppress evidence was properly denied.

The sufficiency of the evidence to show Uribe intended to sell the meth was first and foremost a jury question. We do not reweigh the evidence presented to a jury, and reversal on this basis requires there be no substantial evidence supporting the verdict. Our task in determining whether there was sufficient evidence is to decide "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." (*Jackson v. Virginia* (1979) 443 U.S. 307, 319; *People v. Johnson* (1980) 26 Cal.3d 557, 576.)

Here there was such evidence. Uribe had over a thousand dollars worth of meth and a digital scale in his car. The scale was inexplicable in terms of his purported purchase of the drugs two days earlier, and the quantity was such that a jury could reasonably have concluded it was more than a user would be expected to carry. Trial testimony established that a heavy user could go through about a gram a day; Uribe had almost 13 grams. While that did not compel a conclusion of the intention to sell some of the drug, it was certainly enough to support a conclusion it was possessed for sale.

That, and the jury's opportunity to observe Uribe when he testified it was possessed only for personal use, was enough to support their verdict.

We have reviewed the transcript of the trial, the motion, and the other proceedings in the case and have found no other indication of error. Appellate counsel's inability to find an issue is confirmed by our own. The judgment is therefore affirmed.

BEDSWORTH, J.

WE CONCUR:

RYLAARSDAM, ACTING P. J.

ARONSON, J.