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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

HECTOR CORTECASTRO,

Defendant and Appellant.

H043236

(Santa Clara County

Super. Ct. No. C1508960)

**I. INTRODUCTION**

After a jury trial, defendant Hector Cortecastro was convicted of the felony offense of bringing a controlled substance, methamphetamine, into a jail (Penal Code, section 4573).<sup>1</sup> The trial court suspended the imposition of sentence and placed defendant on formal probation for three years.

Defendant filed a timely notice of appeal, and we appointed counsel to represent him in this court. Appointed counsel has filed an opening brief that states the case and facts but raises no issue. We notified defendant of his right to submit written argument on his own behalf within 30 days. The 30-day period has elapsed and we have received no response from defendant.

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

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *People v. Kelly* (2006) 40 Cal.4th 106 (*Kelly*), we have reviewed the entire record. Following the California Supreme Court's direction in *Kelly, supra*, at page 110, we provide "a brief description of the facts and procedural history of the case, the crimes of which the defendant was convicted, and the punishment imposed."

## **II. FACTUAL AND PROCEDURAL BACKGROUND**

The complaint filed in April 2015 charged defendant with one felony count of violating section 4573 by bringing a controlled substance, methamphetamine, into a jail. Defendant was held to answer at the conclusion of the preliminary hearing held in September 2015. The information was not included in the record on appeal.

Defendant pleaded not guilty and the case proceeded to a jury trial in December 2015. The sole witness was City of Milpitas Police Officer Kenneth Le. Based on his training and experience, the trial court deemed Officer Le an expert in the area of a usable amount of methamphetamine. The following is a brief summary of Officer Le's testimony at trial.

On April 17, 2015, Officer Le was dispatched to a city street to respond to a report of "subjects hanging out in the area." After arriving at the scene Officer Le made contact with defendant. Officer Le spoke to defendant in English and defendant responded in English. Since Officer Le had spoken English with defendant during their previous contacts, Officer Le was comfortable that defendant understood him in English and did not consider getting an interpreter.

Officer Le confirmed that defendant had an outstanding warrant and then arrested him. At the time of the arrest, Officer Le asked defendant if he "had anything illegal on him," to which defendant replied, "[N]o." Next, Officer Le conducted a pat search. The search included taking off defendant's hat and looking underneath it, then putting the hat back on defendant's head. Officer Le did not find anything in defendant's hat during the pat search.

After completing the search, Officer Le placed defendant in the backseat of his patrol vehicle and drove to the Milpitas Police Department. Defendant was wearing handcuffs and did not get out of the patrol vehicle. Officer Le then took defendant to the Santa Clara County Main Jail. Defendant, who was still wearing handcuffs and his hat, entered the jail through the sally port (metal doors with windows). As he was entering the jail, defendant would have passed a sign stating that drugs or other restricted items may not be brought into the jail.

Officer Le searched defendant again after defendant passed through the sally port. The search included Officer Le taking off defendant's hat and checking underneath the lip (headband) of the hat. Officer Le found a twisted pink baggie about the size of a penny under the lip of the hat, which contained a crystal rock that Officer Le recognized as methamphetamine. The parties stipulated that the substance was methamphetamine with a net weight of 0.10 grams. Based on his training and experience, Officer Le determined that a tenth of a gram of methamphetamine was a usable amount.

On December 9, 2015, the jury rendered its verdict finding defendant guilty of bringing a controlled substance into a jail in violation of section 4573. At the sentencing hearing held on January 8, 2016, the trial court suspended the imposition of sentence and placed defendant on formal probation for three years with several terms and conditions. The trial court also ordered defendant to serve a county jail sentence of 252 days. Defendant was awarded conduct credits under section 4019 in the amount of 252 days and his county jail sentence was deemed served. In addition, defendant was ordered to pay various fines and fees.

### **III. WENDE ANALYSIS**

Having carefully reviewed the entire record, we conclude that there are no arguable issues on appeal. (*Wende, supra*, 25 Cal.3d at pp. 441-443.)

### **IV. DISPOSITION**

The judgment is affirmed.

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BAMATTRE-MANOUKIAN, J.

WE CONCUR:

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ELIA, ACTING P.J.

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MIHARA, J.

*People v. Cortescastro*  
**H043236**