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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 BENITEZ,

Defendant and Appellant.

G041201

(Super. Ct. No. FWV034195)

O P I N I O N

Appeal from a judgment of the Superior Court of San Bernardino County, Raymond L. Haight, III, Judge. Affirmed.

Lewis A. Wenzell, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Gary W. Schons, Assistant Attorney General, Gil Gonzalez and Andrew Mestman, Deputy Attorneys General, for Plaintiff and Respondent.

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A jury found defendant Samuel Benitez guilty of resisting an officer (Pen. Code, § 69), possession of methamphetamine (Health & Saf. Code, § 11377, subd. (a)), and misdemeanor resisting an officer (Pen. Code, § 148). The court placed him on three years' probation plus 180 days in custody to be served on weekends.

James Vaughn, the acting supervisor of the county's crime laboratory, testified based on notes made by another criminalist that the substance in defendant's possession was 0.02 grams of methamphetamine. Defendant objected to this testimony as hearsay and as violating his right to confrontation. The appeal raises a single issue: was defendant's constitutional right to confrontation denied by permitting Vaughn to testify based on another's analysis of the substance? Defendant cites *Crawford v. Washington* (2004) 541 U.S. 36, 125 S.Ct. 1354, 158 L.Ed.2d 177 in support of this contention.

Defendant acknowledges in his brief that the California Supreme Court held in *People v. Geier* (2007) 41 Cal.4th 555, 605 that reports of testing results are not testimonial and therefore the admission of such evidence is not prohibited by *Crawford v. Washington*. But he notes that the issue is presently before the United States Supreme Court in *Melendez-Diaz v. Massachusetts*, No. 07-591, cert. granted March 17, 2008 \_\_\_ U.S. \_\_\_ 128 S.Ct. 1647, 170 L.Ed.2d 352.

Unless we are otherwise directed by the United States Supreme Court, we are bound to follow the precedent established by our own Supreme Court. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.) We therefore affirm the judgment herein.

RYLAARSDAM, J.

WE CONCUR:

SILLS, P. J.

O'LEARY, J.