

CALIFORNIA COURT OF APPEAL

OPINIONS

NEITHER THE FOURTH AMENDMENT NOR THE ELECTRONIC COMMUNICATIONS PRIVACY ACT (ECPA) WERE VIOLATED WHERE AN UNDERCOVER OFFICER USED SOCIAL MEDIA TO OBTAIN A VIDEO VIA A “FRIEND” PROFILE BECAUSE DEF. ASSUMED THE RISK THAT A “FRIEND” COULD BE A GOVERNMENT AGENT

People v. Pride—Filed Jan. 10, 2019, in D073360 (4 DCA, Div. 1) [[2019 WL 151272](#); [2019 Cal.App.Lexis 34](#)].

Facts: Def., a gang member, posted a video to his social media account that showed him wearing the gold chain he stole from the victim during a robbery. A gang detective viewed the video as a “friend” of def.’s on his social media account. The trial court denied def.’s suppression motion and held that there was no violation for the detective to represent himself “as a friend when you’re not really all that friendly.”

Held: (1.) Because the Fourth Amendment affords no protection for voluntary communications with secret government informers or agents, there is no Fourth Amendment or ECPA violation when an undercover officer poses as a “friend” to obtain incriminating information from a social media page. (2.) SB 1393 applies retroactively to def. and remand for resentencing on his prior serious felony enhancements is appropriate.

SAN DIEGO COUNTY – ROBBERY – AFFIRMED AND REMANDED FOR FURTHER PROCEEDINGS
SD2018800564 - [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]