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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE, Plaintiff and Respondent, v. PIERRE LAMONT MATCHEM Defendant and Appellant.	B275239 (Los Angeles County Super. Ct. No. BA437123)

APPEAL from a judgment of the Superior Court of Los Angeles County, Stephen A. Marcus, Judge. Affirmed.

Adrian K. Panton, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Victoria B. Wilson and Lindsay Boyd, Deputy Attorneys General, for Plaintiff and Respondent.

Defendant Pierre Lamont Matchem, an inmate in Twin Towers Correctional Facility, shattered glass windows in the jail's shower. He appeals from his conviction for damaging jail property, contending the trial court committed prejudicial error and deprived him of his due process right to a fair trial by admitting foundationless, hearsay testimony about the replacement cost of the shattered glass.

We affirm the judgment.

BACKGROUND

In 2015, Matchem was incarcerated in Tower 2 of the Twin Towers Correctional Facility in Los Angeles. On the evening of May 6, 2015, he broke several shower windows and a showerhead with a piece of metal contained in a sock.

Michael Parkinson, the manager of Twin Towers, inspected the shower area after the incident. He observed 10 broken windows and a broken showerhead assembly. He ordered replacement windows and oversaw repairs.

Matchem was charged with damaging jail property in violation of Penal Code section 4600, subdivision (a).

At trial, Parkinson testified he had worked at Twin Towers for over 24 years and was responsible for approving all general maintenance, including repairs. The facility used a system of work orders to track repair work. A work order would reflect the cost of parts and labor, which was fixed by preexisting agreement between the County of Los Angeles (the county) and its vendors. Specific to the shower area at Twin Towers, Parkinson testified he approved a work order quoting repairs for $27,409.31.

The jury found Matchem guilty, and he was sentenced to four years in prison. He timely appealed.

DISCUSSION

Intentionally destroying jail property is punishable as a felony, unless the "damage . . . is determined to be nine hundred fifty dollars ($950) or less." (Pen. Code, § 4600, subd. (a).)

Matchem argues insufficient evidence supported the court's finding that the damage he caused to the Twin Towers jail exceeded $950, because Parkinson's testimony about the cost to repair the shower area lacked foundation, as he had no personal knowledge about how much the county actually paid for the repairs. We disagree.

A witness's testimony must be based on personal knowledge. (Evid. Code, § 702, subd. (a).) A trial court's evidentiary ruling is reviewed for abuse of discretion. (*People v. Goldsmith* (2014) 59 Cal.4th 258, 266.) A "trial court does not abuse its discretion unless its decision is so irrational or arbitrary that no reasonable person could agree with it." (*People v. Carmony* (2004) 33 Cal.4th 367, 377.)

Here, Parkinson had worked on Twin Tower's facility maintenance and repairs for over 24 years. He testified the facility used a system of work orders to authorize and track repair work, the cost of which was fixed by preexisting agreement between the county and its vendors. Parkinson testified he approved all work orders, and specifically approved an order to repair the subject shower area for $27,409.31. This authorization constituted the county's acceptance of the vendor's offer to perform repairs for that amount. Parkinson therefore had personal knowledge about the amount the vendor offered to charge, and the county agreed to pay, for the repairs.

Matchem argues Parkinson's testimony was incompetent because he had no personal knowledge about the "cost" of the

repairs, nor about the county's payment system, nor about whether the county actually paid anything for the repairs. The argument is without merit.

Penal Code section 4600 makes it a felony to destroy jail property when the "damage . . . is *determined* to be nine hundred fifty dollars ($950) or less." (Pen. Code, § 4600, subd. (a), italics added.) The statute requires only that "damage" be caused and its value "determined," not that repairs actually be made and paid for. A broken window constitutes damage whether or not repairs are made.

In any event, the "cost" of damage is fairly assessed by determining how much a facility manager agrees to pay for repairs. Here, Parkinson agreed on behalf of the county to pay $27,409.31. That agreement was within his personal knowledge. It was then for the trier of fact to evaluate whether the actual damage amounted to less than $950, i.e., whether Parkinson agreed to pay approximately 28 times more than the repairs were worth.

Matchem argues Parkinson expressly admitted on the stand that his valuation of the cost of repairs was "based" exclusively on the work order, which was an out-of-court document and therefore inadmissible hearsay. The argument is without merit.

Hearsay evidence is a statement made by a witness not testifying at the hearing and offered to prove the truth of the matter asserted. (Evid. Code, § 1200, subd. (a).) Hearsay is inadmissible unless an exception applies. (Evid. Code, § 1200, subd. (b).)

Here, after Parkinson testified the cost of replacement glass would be $27,409.31, the trial court asked, "You're basing

that on some kind of record that you have there?" He replied, "Yes, sir." The prosecutor then asked, "do you base your values on the information contained within these work orders?" He replied, "Yes, we do."

The work order, which was never admitted, was used not to show the truth of the matter it contained—i.e., the $27,409.31 valuation—but to show how much Parkinson agreed on behalf of the county to pay in exchange for repairs, and why. An offer and acceptance have legally operative effect independent of any factual assertions made therein, and are therefore not hearsay. (*Pacific Gas & Electric Co. v. G. W. Thomas Drayage etc. Co.* (1968) 69 Cal.2d 33, 43 [if "a party testifies that he incurred . . . a liability for repairs," an invoice or bill "may be admitted for the limited purpose of corroborating his testimony"].)

We conclude the trial court was within its discretion to admit Parkinson's testimony concerning the amount he agreed to pay for repairs, which constituted substantial evidence that Matchem caused damage exceeding $950. The judgment is therefore affirmed.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED.

CHANEY, Acting P. J.

We concur:

JOHNSON, J. LUI, J.