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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE, Plaintiff and Respondent, v. RINESON CURTIS ADAMS, Defendant and Appellant.	B270285 (Los Angeles County Super. Ct. No. BA411789)

APPEAL from judgment of the Superior Court of Los Angeles County. Dennis J. Landin, Judge. Modified and affirmed with directions.

J. Kahn, 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, Senior Assistant Attorney General, Shawn McGahey Webb, Supervising Deputy Attorney General, and David W. Williams, Deputy Attorney General, for Plaintiff and Respondent.

Rineson Curtis Adams appeals from the judgment entered following a jury trial in which he was found sane and convicted of the first degree murder of Jai L. in count 1 (Pen. Code,[1] § 187, subd. (a)), and child abuse of Giordan L. in count 2 (§ 273a, subd. (a)). The jury found true the special allegations that appellant used a deadly weapon (§ 12022, subd. (b)(1)) and that he had previously suffered a conviction for a serious and/or violent felony (§§ 667, subds. (b)–(j) & 1170.12, subd. (b)). The trial court sentenced appellant to 56 years to life on count 1, and imposed and stayed a concurrent 8-year term on count 2. Appellant received 1,699 days' custody credit, consisting of 989 actual days in custody plus 710 days of conduct credit.

Appellant contends: (1) because the jury's finding of premeditation lacks substantial evidentiary support, appellant's conviction for first degree murder must be reduced to second degree murder; and (2) appellant's constitutional right to due process was violated when he was forced to appear before the jury in a "safety chair"; the restraint was prejudicial and unnecessary for courtroom security. We disagree with both contentions, and affirm the judgment of conviction.

Respondent argues that, because appellant was convicted in count 1 for first degree murder, he was ineligible to receive any conduct credits. (§ 2933.2, subds. (a) & (c).) We agree, and modify the judgment accordingly.

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[1] Undesignated statutory references are to the Penal Code.

FACTUAL BACKGROUND

Appellant was living in a two-bedroom apartment with his girlfriend, Gina Evans, and her two sons, 11-year-old Jai and 5-year-old Giordan. On the morning of May 27, 2013, appellant cooked breakfast for Jai and Giordan while Evans slept. Appellant set two plates of scrambled eggs and bacon on the kitchen table, picked up a steak knife, and walked to the boys' bedroom. Jai was reading a book when appellant knocked on the door and entered the room. Holding the knife, appellant told the boys both sides of a knock-knock joke: "knock knock . . . who's there. Killer. Killer who, killer, killed, killing you." He then began stabbing Jai with the knife. As Giordan tried to punch appellant and pleaded with him to stop, appellant said, "nobody's . . . gonna save you anymore."

Evans awoke suddenly to the sound of her child screaming in the next room. She jumped out of bed, threw on some clothes, and ran to the boys' bedroom. When she reached the room, Evans saw appellant make a motion with his hand toward Jai's back. Appellant then positioned himself between Evans and her son and made a stabbing motion toward Jai's chest. As blood began to squirt out of Jai's chest he collapsed. Evans tried to put her finger in the hole in Jai's chest to stop the bleeding, but her son died in her arms. Appellant threw something into the air; when it landed, Evans saw it was one of the steak knives from the kitchen. After calling 911, Evans saw appellant outside the apartment. She grabbed a knife from the kitchen, ran outside, and stabbed appellant in the neck.

Police arrived to find Jai lying motionless on the bedroom floor in a pool of blood. The coroner determined that he had died almost immediately after suffering four knife wounds in the

attack: a two-inch cut to the base of the right thumb, a sharp force injury to the neck, and two stab wounds to the right and left sides of the chest.[2]

DISCUSSION

I. The jury's finding of premeditation is supported by substantial evidence.

Appellant challenges the sufficiency of the evidence in support of the jury's finding of premeditation and deliberation, and contends the lack of such evidence requires that his conviction in count 1 be reduced from first to second degree murder. We find ample evidentiary support for the jury's finding, and therefore decline appellant's invitation to reduce his conviction to second degree murder.

Assessing appellant's substantial evidence claim, " 'we review the entire record in the light most favorable to the judgment to determine whether it contains substantial evidence—that is, evidence that is reasonable, credible, and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.' " (*People v. Avila* (2009) 46 Cal.4th 680, 701; *People v. Watkins* (2012) 55 Cal.4th

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[2] The injury on the right side of the chest was a nonfatal stab wound that went from the back upward, hitting only soft tissue. The stab wound on the left side, however, was fatal, penetrating the chest plate and pericardium, and cutting a half-inch hole in the aorta. This wound caused excessive bleeding and filled the pericardial cavity with blood, which ultimately caused the heart to stop. Although only one of the wounds was itself fatal, all of the stab wounds caused bleeding, thus contributing to the boy's death.

999, 1019.) "We determine '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. Edwards* (2013) 57 Cal.4th 658, 715.) In so doing, we draw all reasonable inferences in favor of the verdict and presume the existence of every fact the jury could reasonably deduce from the evidence that supports its findings. (*People v. Maciel* (2013) 57 Cal.4th 482, 515; *People v. Kraft* (2000) 23 Cal.4th 978, 1053.)

"[U]nless [a witness's] testimony is physically impossible or inherently improbable, testimony of a single witness is sufficient to support a conviction." (*People v. Young* (2005) 34 Cal.4th 1149, 1181.) "In deciding the sufficiency of the evidence, a reviewing court resolves neither credibility issues nor evidentiary conflicts." (*Ibid.*; *People v. Maury* (2003) 30 Cal.4th 342, 403.) Rather, " 'it is the exclusive province of the . . . jury to determine the credibility of a witness and the truth or falsity of the facts,' " and it is not for us to substitute our judgment for that of the jury's. (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) Finally, the trier of fact may rely on inferences to support a conviction where "those inferences are 'of such substantiality that a reasonable trier of fact could determine beyond a reasonable doubt' that the inferred facts are true. (*People v. Raley* (1992) 2 Cal.4th 870, 890–891.)" (*People v. Rios* (2013) 222 Cal.App.4th 542, 564.)

" 'The standard of review is the same in cases in which the prosecution relies mainly on circumstantial evidence. [Citation.] " 'Although it is the duty of the jury to acquit a defendant if it finds that circumstantial evidence is susceptible of two interpretations, one of which suggests guilt and the other

innocence [citations], it is the jury, not the appellate court[,] which must be convinced of the defendant's guilt beyond a reasonable doubt. " '*If the circumstances reasonably justify the trier of fact's findings, the opinion of the reviewing court that the circumstances might also reasonably be reconciled with a contrary finding does not warrant a reversal of the judgment*.' " ' " ' " (*People v. Watkins*, *supra*, 55 Cal.4th at p. 1020; *People v. Clark* (2011) 52 Cal.4th 856, 942–943; *People v. Rodriguez* (1999) 20 Cal.4th 1, 11.) Reversal on the basis of insufficient evidence is "unwarranted unless it appears 'that upon no hypothesis whatever is there sufficient substantial evidence to support [the conviction].' " (*People v. Bolin* (1998) 18 Cal.4th 297, 331.)

Like murder in the second degree, murder in the first degree is the unlawful killing of a human being with malice aforethought, but is distinguished from second degree murder by the additional elements of willfulness, premeditation, and deliberation. (*People v. Chiu* (2014) 59 Cal.4th 155, 166.) " ' "Deliberation" refers to careful weighing of considerations in forming a course of action; "premeditation" means thought over in advance.' [Citation.] 'The true test is not the duration of time as much as it is the extent of the reflection. Thoughts may follow each other with great rapidity and cold, calculated judgment may be arrived at quickly, but the express requirement for a concurrence of deliberation and premeditation excludes from murder of the first degree those homicides . . . which are the result of mere unconsidered or rash impulse hastily executed.' " (*People v. Brooks* (2017) 3 Cal.5th 1, 58; *People v. Pearson* (2013) 56 Cal.4th 393, 443.)

In *People v. Anderson* (1968) 70 Cal.2d 15, 26–27 (*Anderson*), our Supreme Court created a framework " ' " 'to guide

an appellate court's assessment whether the evidence supports an inference that the killing occurred as the result of preexisting reflection rather than unconsidered or rash impulse.' " ' " (*People v. Lee* (2011) 51 Cal.4th 620, 636.) *Anderson* "identified three categories of evidence relevant to determining premeditation and deliberation: (1) events before the murder that indicate planning; (2) a motive to kill; and (3) a manner of killing that reflects a preconceived design to kill." (*People v. Gonzalez* (2012) 54 Cal.4th 643, 663 (*Gonzalez*); *People v. Solomon* (2010) 49 Cal.4th 792, 812.) But the high court has emphasized that " '[t]he *Anderson* guidelines are descriptive, not normative. [Citation.]' [Citation.] They are not all required [citation], nor are they exclusive in describing the evidence that will support a finding of premeditation and deliberation." (*Gonzalez*, *supra*, 54 Cal.4th at p. 663.)

The record in this case reveals substantial evidence satisfying all three *Anderson* factors from which the jury could reasonably infer that appellant acted deliberately and according to a " 'preconceived design' " rather than from a rash impulse. (See *Anderson*, *supra*, 70 Cal.2d at p. 27; *People v. Brooks*, *supra*, 3 Cal.5th at p. 59.)

A. *Evidence of planning before the murder*

The evidence regarding appellant's actions before the murder leaves little doubt that appellant engaged in preparation and planning before he killed Jai. Such planning was most evident in the fact that appellant spent enough time thinking about what he was going to do to come up with a macabre "knock-knock" joke about killing Jai. Already armed with the murder weapon, he shared the joke with the boys immediately before commencing his attack. The jury could also infer preparation

and planning from the fact that appellant brought the murder weapon with him from the kitchen to the boys' bedroom. Appellant dismisses as speculative any inference of a preformed plan to kill based on this evidence, because appellant did not go out of his way to get a weapon, but simply grabbed a knife from the kitchen. However, even if there were evidence of an innocent explanation for appellant bringing the steak knife to the boys' bedroom, appellant's preparation and forethought in arming himself beforehand nevertheless supports the inference that he premeditated the killing.

B. *Evidence of a motive to kill*

The record also reveals substantial evidence of the second *Anderson* factor—a motive to kill—which supports the jury's finding. Unlike his five-year-old brother, Jai never called appellant "Dad," and appellant believed Jai did not like him. In the month preceding the murder, appellant complained about Jai and chafed at Evans's refusal to allow him to discipline the boy. While such conflicts may seem a trivial reason to kill an 11-year-old boy, there is no requirement that the defendant have a "good" reason for killing or that his motive be objectively reasonable. Indeed, even " ' "[a] senseless, random, but premeditated, killing supports a verdict of first degree murder." ' " (*People v. Halvorsen* (2007) 42 Cal.4th 379, 421.) Appellant's statement as he stabbed Jai that "nobody's . . . gonna save you anymore" further indicates appellant's motive in taking advantage of the boys' helpless and vulnerable position without their mother there to protect them.

C. *Evidence of a deliberate manner of killing reflecting a preconceived design to kill*

Appellant describes his killing of Jai as a brief, "frenzied attack" that cannot sustain an inference that he reflected on his

actions at any point prior to or during the stabbing. While the killing here was certainly a "[v]icious brutal knifing" (*People v. Nazeri* (2010) 187 Cal.App.4th 1101, 1118), there is scant evidence that the attack was carried out in such a manner as to negate any inference that it was premeditated and deliberate.

As Evans's boyfriend of five years, appellant enjoyed a position of trust in the family, which he exploited when he calmly entered the boys' bedroom armed with a knife while the boys' mother slept. As a prelude to the sudden attack, appellant got the boys' attention with a gruesome knock-knock joke. But despite the element of surprise and the advantage of size, appellant did not immediately kill his victim. Rather, he began his attack with two nonfatal strikes to Jai's neck and his hand. As Giordan tried to punch appellant and begged him to stop, appellant paused and said, "nobody's . . . gonna save you anymore." The attack dragged on long enough that by the time appellant stabbed Jai again, Evans had woken up, gotten dressed, and rushed into the bedroom. She reached her son in time to witness appellant stab her son two more times—first in the back, followed by the fatal stab wound to the chest.

This evidence plainly supports the jury's inference that appellant had a preconceived design to kill that he executed with calm deliberation despite multiple opportunities to reflect and reverse course. "As we have stated, the relevant question on appeal is not whether *we* are convinced beyond a reasonable doubt, but whether *any* rational trier of fact could have been persuaded beyond a reasonable doubt that defendant premeditated the murder." (*People v. Perez* (1992) 2 Cal.4th 1117, 1127.) The evidence here is undeniably sufficient to sustain the jury's finding of premeditation.

II. Appellant's confinement to a wheelchair during trial did not constitute an unreasonable restraint, and appellant suffered no prejudice.

Appellant contends he was confined to a "safety chair" with a neck brace during trial, and argues that the use of such visible restraints constituted prejudicial constitutional error. (*People v. Hernandez* (2011) 51 Cal.4th 733, 745, citing *Deck v. Missouri* (2005) 544 U.S. 622, 629; see *People v. Duran* (1976) 16 Cal.3d 282, 290–291 (*Duran*).) Appellant failed to object to restraints at trial, however, and has thus forfeited the claim. In any event, his factual assertions regarding the restraints find no support in the record, the trial court did not abuse its discretion in allowing appellant to be confined to a wheelchair during trial, and appellant fails to demonstrate any prejudice.

A. *Relevant background*

At a pretrial hearing before Judge Landin, the sheriff's department requested permission to bring appellant to court in a "safety chair" for his next appearance after appellant had "spat on at least four deputies and was [combative]." The judge personally observed that when appellant was in lockup the day before he was yelling so loudly he could be heard in chambers next door, and it had taken at least 10 minutes to get him under control and remove him from the lockup. Defense counsel acknowledged the need for security measures "when [appellant] becomes agitated." And the court observed that appellant is "very unpredictable. We don't know what will set him off or when that will happen. It becomes [a] security issue whenever he's in the court[room]." While finding a manifest need for a safety chair for pretrial appearances, the court declared that it would be up to the trial judge to determine whether security

measures would be "necessary and appropriate" in front of a jury. The minute order from a subsequent pretrial conference indicates that appellant physically attacked sheriff's personnel in lock-up.

The case was assigned to Judge Landin for trial. Before jury selection began, the court observed appellant was "in what is called a safety chair." Appellant corrected the court: "This is just a regular wheelchair, your Honor." As trial proceeded,[3] appellant caused numerous disruptions. He interrupted voir dire as well as various witnesses' testimony resulting in numerous warnings from the court. He also urinated on himself during the coroner's testimony, and after the break following that incident, he had to be temporarily removed from the courtroom for "interrupting the proceedings by laughing and making statements."

B. *Appellant has forfeited any claim regarding courtroom restraints.*

Appellant made no objection to being restrained or confined to a wheelchair at any time during trial. Accordingly, he has forfeited any claim that he should not have been restrained at all, or that a wheelchair was an inappropriate form of restraint. (*People v. Williams* (2015) 61 Cal.4th 1244, 1259 (*Williams*); *People v. Foster* (2010) 50 Cal.4th 1301, 1321.)

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[3] The court also noted that appellant was wearing a blue padded gown (known as a "suicide gown"). Refusing to change into civilian clothing, appellant proceeded to trial wearing the gown and a neck brace.

C. *Appellant's factual assertions regarding confinement to a "safety chair" are belied by the record, any restraint of appellant was justified, and appellant fails to demonstrate prejudice.*

"The Fifth and Fourteenth Amendments to the federal Constitution bar the use of visible restraints 'unless the trial court has found that the restraints are justified by a state interest specific to the particular trial.' " (*People v. Gamache* (2010) 48 Cal.4th 347, 367.) Our Supreme Court has held that " 'a criminal defendant may be subjected to physical restraints in the jury's presence upon "a showing of a manifest need for such restraints." ' " (*Williams*, *supra*, 61 Cal.4th at p. 1259.) If the trial court concludes that restraints are necessary, the "court should select the least obtrusive method that will be effective under the circumstances." (*People v. Gamache*, *supra*, 48 Cal.4th at p. 367.) And whatever method the court determines to be necessary must be reasonably likely to achieve the desired result. (*Duran*, *supra*, 16 Cal.3d at p. 291.) While the trial court's decision to physically restrain a defendant may not be based on rumor or innuendo, no formal evidentiary hearing is required. (*Williams*, *supra*, 61 Cal.4th at p. 1259; *People v. Lewis and Oliver* (2006) 39 Cal.4th 970, 1032.) We review the trial court's determination of the necessity for physical restraints for abuse of discretion. (*People v. Combs* (2004) 34 Cal.4th 821, 837.)

Appellant claims the trial court forced him to "proceed to jury trial in a safety chair," and incorrectly states that "the judge described it [a]s a 'neck brace.' " Appellant asserts that the safety chair in which he was confined was similar to the "Pro-straint" brand of safety chair, used in courtrooms " 'to restrain violent or combative prisoners while ensuring officer safety.' " According to

appellant, a person in such a restraining device is locked into the chair with visible restraints which form an "X" across the person's body. As one court has described it, "[a] Pro-straint [safety] chair is comprised of a plastic chair, leg irons, handcuffs, and various straps." (*Von Colln v. County of Ventura* (C.D.Cal. 1999) 189 F.R.D. 583, 585.)

Appellant's assertion that his wheelchair and/or the neck brace were the functional equivalent of a "safety chair" finds absolutely no support in the record. Indeed, as the record clearly reveals and appellant himself acknowledged, appellant was placed in a standard wheelchair, not a "safety chair." Moreover, there is no indication that handcuffs, straps, or any other visible restraints were employed at any time during trial.[4] And contrary to appellant's argument, there is no evidence whatsoever that the neck brace appellant wore was part of any "safety chair" or other restraint.[5]

Nevertheless, to the extent appellant was visibly restrained in his wheelchair, such restraint was justified. Over a period of months before trial even started, the trial judge in this case had

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[4] Nevertheless, the court instructed the jury with CALCRIM No. 204: "Defendant Physically Restrained," explaining that "even though [appellant is] not wearing handcuffs[,] [h]e is restrained to the wheelchair, and the jurors probably noticed that."

[5] It appears from the record that appellant wore the neck brace out of medical necessity, rather than as any form of restraint. Appellant had banged his head against the floor on at least one occasion and engaged in other self-harm behaviors, including an attempted suicide.

personally observed appellant's erratic and sometimes violent behavior, and expressly found appellant presented a security risk. Appellant attacked sheriff's personnel, routinely spat at deputies, disrupted proceedings with vocal outbursts and talking over witnesses, and urinated on himself in court. By placing appellant in a wheelchair appellant could be quietly removed from the courtroom by a single bailiff, minimizing any disruption. Under these circumstances, the court properly found a manifest need for some form of restraint, and chose the least obtrusive method to achieve the legitimate goals of courtroom order and security. The trial court did not abuse its discretion in allowing appellant to appear before the jury confined to a wheelchair during trial.

Appellant has also failed to demonstrate any prejudice as a result of the minimal restraint. As our Supreme Court has declared, the use of restraints, even if error, is harmless in the absence of any evidence that the restraints " 'impaired or prejudiced the defendant's right to testify or participate in his defense.' " (*Williams*, *supra*, 61 Cal.4th at p. 1259.) Here, appellant testified in his own behalf, and no evidence suggests the wheelchair influenced his testimony, distracted him, or affected his demeanor in the courtroom. (See *People v. Combs*, *supra*, 34 Cal.4th at p. 839.) Neither is there any evidence that the wheelchair impaired appellant's ability to communicate with defense counsel. (See *Williams*, *supra*, 61 Cal.4th at p. 1259.)

III. Appellant is not entitled to any conduct credits.

At sentencing, the trial court awarded appellant 1,699 days of presentence custody credit, consisting of 989 actual days in custody plus 710 days of conduct credit. Recognizing that appellant was ineligible for conduct credits due to his conviction

in count 1 for first degree murder (§ 2933.2, subds. (a) & (c)), the court awarded conduct credits only as to count 2. However, "section 2933.2 applies to the offender not to the offense and so limits a murderer's conduct credits irrespective of whether or not all his or her offenses were murder." (*People v. Wheeler* (2003) 105 Cal.App.4th 1423, 1432.) The trial court thus erred in awarding appellant conduct credits for count 2 in light of his disqualifying murder conviction in count 1.

DISPOSITION

The judgment is modified to delete the award of 710 days of presentence conduct credit. The trial court is ordered to correct the minute order and to prepare and forward to the Department of Corrections and Rehabilitation an amended abstract of judgment to reflect the modification. In all other respects, the judgment is affirmed.

NOT TO BE PUBLISHED.

LUI, J.

We concur:

ROTHSCHILD, P. J.

CHANEY, J.