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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

ADEL TABRIZI CHAPEL,

Defendant and Appellant.

2d Crim. No. B229930
(Super. Ct. No. LA061451)
(Los Angeles County)

Adel Tabrizi Chapel appeals his conviction, by jury, of the first degree murder (Pen. Code, §§ 187, 189) of Denise Figueroa. He contends there is no substantial evidence the murder was premeditated and deliberate and that the trial court erred in admitting the testimony of Los Angeles Police Department Detective Mark O'Donnell as an expert witness on crime scene reconstruction. We affirm.

Facts

In February 2009, then 24-year-old appellant was dating the then 22-year-old victim Denise Figueroa. Denise was a close friend and high school classmate of appellant's younger sister, Sara. Sara was in a relationship with one of appellant's friends, Christopher Bullock. Denise lived with her two-year-old daughter at her mother's home.

On the evening of February 28, 2009, Figueroa left the house after telling her mother that she was going to see appellant. She was driving her grey

Nissan Maxima. That same evening, appellant was spending time with Sara and Bullock at Bullock's apartment in North Hollywood. He told the others that he was going to go out with Figueroa that night. At about 7 p.m., Bullock left the house to get some food. When he returned about 20 minutes later, appellant was gone. Appellant called Bullock's cell phone about an hour later and asked Bullock to bring a towel and some water down to him on the street. Bullock complied, meeting appellant at the entrance gate to the apartment building. Appellant seemed to be on edge. Bullock saw Figueroa's grey Maxima parked down the street, but did not see her.

After another 20 minutes, appellant called Bullock again, to be let inside the apartment. Bullock thought appellant seemed worried and noticed that he had scratches on his face. When Bullock asked appellant what was going on, appellant replied, "I did something bad." He went into the bathroom and called someone on his telephone. Bullock overheard appellant crying on the phone and telling someone, "I fucked up." Appellant stayed in the bathroom for hours, talking to his sister Sara and on the cell phone to others. He even cut off his long hair. By eavesdropping, Bullock heard appellant explain to Sara that her friend was dead. He surmised that appellant was referring to Figueroa. Eventually, Bullock overheard appellant say "that he hit [Figueroa] with a hammer. They had got into a fight, and he just hit her with a hammer."

Early the next morning, appellant asked Bullock for money so that he could buy trash bags to get rid of Figueroa's body. Bullock gave him the money. Later, when appellant asked Bullock to help him clean out the car and dispose of the body, however, Bullock refused. Appellant left alone. About an hour later he returned to the apartment. Appellant told Bullock that he was going to put Figueroa's body in the trunk of her car and then tell the police where she was. Appellant also said that he was going to turn himself in. Bullock didn't want the rest of his family to be exposed to this situation, so he told appellant and Sara to leave.

While appellant was in Bullock's bathroom on the night of February 28, he called his father in Virginia and his brother Alireza in Mississippi. During the

conversation with his father, appellant tearfully explained that he had done something terrible: after an argument with a woman he choked her and left her body in her car. He later mentioned the name "Figueroa." In a series of telephone conversations with Alireza that night, appellant explained that he killed Figueroa during an argument in her car. They were in her back seat and appellant choked her until she lost consciousness. He then hit her on the head with a hammer until she was dead. In a subsequent conversation, appellant told Alireza that he and Bullock put Figueroa's body in the trunk of her car and parked it near Bullock's house. He also said that he was going to turn himself in.

On March 3, appellant was arrested at his mother's house, for an unrelated crime. He had no apparent injuries to his face, arms or neck. Officers searched the mother's house, recovered a hammer from the kitchen and booked it into evidence. The hammer contained no DNA or other material linking it to this case.

A few days later, on March 7, appellant's brother Alireza sent an anonymous fax to KTLA, a television news station based in Los Angeles. The fax said, "To whom it may concern: Adel Chapel is believed to have killed Denise Figueroa on February the 28th. She should be reported missing by her family. The vehicle was cleaned up by Adel Chapel and his friend, Christopher Bullock. [¶] Her body is in the trunk of her car [in] a black trash bag, which should be located in about a 1.2 to 2-square mile radius of [Bullock's apartment]."

KTLA forwarded the fax to the LAPD. Officers located Figueroa's car parked on the street less than one mile from Bullock's apartment. Her body was found in the trunk, inside a trash bag. The seats were stained with blood and had been covered by sheets. There were blood stains on the inside of the driver's side door and on the underside of the steering wheel column. The windshield was cracked and a small piece was missing on the inside. Cleaning products were also found inside the car.

LAPD Detective Mark O'Donnell observed the condition of Figueroa's car both on the street where it was discovered and after it was impounded at the police

department's forensic testing facility. He noted that the driver's seat was reclined and its headrest had been removed. There was also a concentration of blood and blood splatter in the front driver's compartment of the vehicle and a crack in the windshield on the passenger side. More blood was located on the floorboards in the rear passenger compartment, behind the driver's seat. Based on this evidence, Detective O'Donnell inferred that Figueroa was seated in the driver's seat when she was killed. Figueroa's car had a "pass through" panel between the rear passenger seat and the trunk. Detective O'Donnell opined that the headrest had been removed from the driver's seat and the seat fully reclined to allow someone to slide Figueroa's body into the rear passenger compartment and then into the trunk. O'Donnell also opined that the windshield was cracked from the inside and that the crack "was caused from a hammer during a back-swing."

Fingerprints lifted from the car's interior and from items found inside the car (a water bottle, trash bags, a Lysol spray can, duct tape and a plastic bag) did not match appellant or Bullock, or anyone in the law enforcement fingerprint data base. Blood inside the car contained DNA from at least two persons, one of whom was Figueroa. The contribution from the other person was very low. Appellant could not be included or excluded as a possible contributor of that DNA.

The medical examiner testified that the cause of Figueroa's death was trauma to her skull and brain. She suffered nine injuries to the right side of her head, delivered by a sharp instrument like a claw hammer. Two of these injuries went through to the skull, causing the brain swelling that killed her. Figueroa also had defensive wounds to her arm, shoulder back and hands, and injuries to her neck that were consistent with having been choked, although the choking was not severe enough to be a contributing cause of death.

While he was in jail awaiting trial, appellant had numerous telephone conversations with his sister, Christopher Bullock and others during which he made incriminating statements. For example, in a March 2009 conversation, appellant told Bullock that he needed for Bullock to be "M.I.A." when the trial started. In another

conversation, Sara told appellant that, the night appellant was arrested, the police took "the thing out of the cabinet[,] but it was a "thing" that belonged to their mother. "They took mom's and that's it. I know that for sure," Sara told her brother. She also assured him that the police did not have his "pants and the other thing[.]" According to Sara, "Nobody's going to have any of that ever." The only "thing" the police took out of their mother's house was a hammer.

Discussion

Substantial Evidence of Premeditated and Deliberate Killing

Appellant contends his conviction of first degree murder must be reversed because the evidence was insufficient to support the jury's finding that the murder was premeditated and deliberate. We are not persuaded.

As in every sufficiency-of-the-evidence case, we are required to review " ' the entire record in the light most favorable to the prosecution to determine whether it contains evidence that is reasonable, credible, and of solid value, from which a rational trier of fact could find the defendant guilty beyond a reasonable doubt.' (*People v. Kipp* (2001) 26 Cal.4th 1100, 1128 . . .)" (*People v. Tafoya* (2007) 42 Cal.4th 147, 170.) The question is " ' whether, after reviewing 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." [Citations.]' (*People v. Earp* (1999) 20 Cal.4th 826, 887.)" (*People v. Farnam* (2002) 28 Cal.4th 107, 142.) We "presume the existence of every fact the trier could reasonably deduce from the evidence in support of the judgment. . . . The test is whether substantial evidence supports the decision, not whether the evidence proves guilt beyond a reasonable doubt. [Citations.]" (*People v. Mincey* (1992) 2 Cal.4th 408, 432.) We may not reweigh the evidence or second-guess credibility determinations made by the jury. (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) "Simply put, if the circumstances reasonably justify the jury's findings, the judgment may not be reversed simply because the circumstances might also reasonably be reconciled with a contrary finding." (*People v. Farnam, supra*, 28 Cal.4th at p. 143.)

A murder of the first degree is one that is "willful, deliberate, and premeditated" (§ 189.) As the trial court correctly instructed the jury, "The defendant acted deliberately if he carefully weighed the considerations for and against his choice and, knowing the consequences, decided to kill. The defendant acted with premeditation if he decided to kill before completing the acts that caused death." This process does not, however, "require any extended period of time. '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' (*People v. Thomas* (1945) 25 Cal.2d 880, 900)" (*People v. Mayfield* (1997) 14 Cal.4th 668, 767.)

As our Supreme Court recently explained, a first degree murder conviction will generally be affirmed when " '(1) there is evidence of planning, motive, and a method of killing that tends to establish a preconceived design; (2) extremely strong evidence of planning; or (3) evidence of motive in conjunction with either planning or a method of killing that indicates a preconceived design to kill.' (*People v. Mincey* (1992) 2 Cal.4th 408, 434-435.) These factors are not the exclusive means, however, to establish premeditation and deliberation; for instance, 'an execution-style killing may be committed with such calculation that the manner of killing will support a jury finding of premeditation and deliberation, despite little or no evidence of planning and motive.' (*People v. Lenart* (2004) 32 Cal.4th 1107, 1127)" (*People v. Tafoya, supra*, 42 Cal.4th at p. 172.)

Here, substantial evidence supports the jury's finding that appellant's murder of Figueroa was premeditated and deliberate. On the night of Figueroa's death, appellant told his father that he choked her. Appellant told his brother that he argued with Figueroa, choked her and then hit her on the head with a hammer until she was dead. The medical examiner testified that Figueroa was choked to unconsciousness before she was beaten to death with a hammer or a similarly shaped heavy object. Bruising on Figueroa's neck indicated the choking occurred prior to her death. Thus, it

was only after Figueroa was unconscious that appellant used the hammer to strike her head repeatedly.

Appellant's statements in his telephone conversations with his father and brother provide substantial evidence that the killing was premeditated and deliberated. Motive is established by his violent argument with Figueroa. (*People v. Manriquez* (2005) 37 Cal.4th 547, 577.) After he rendered Figueroa unconscious by choking her, appellant had time to reflect on his actions and decide whether to continue. In that interval between choking Figueroa to the point of unconsciousness and hitting her on the head with the hammer, appellant made the decision to continue the attack and cause her death. This is substantial evidence of both premeditation and deliberation.

Expert Testimony

Appellant contends the trial court erred when it allowed Detective O'Donnell to testify as an expert in crime scene reconstruction because he lacked the educational background or professional experience to qualify as an expert. We review the trial court's decision to permit Detective O'Donnell to testify as an expert for abuse of discretion and find none. (*People v. Castaneda* (2011) 51 Cal.4th 1292, 1336.)

"A person is qualified to testify as an expert witness if the person has 'special knowledge, skill, experience, training or education sufficient to qualify him as an expert on the subject to which his testimony relates.' (Evid. Code, § 720, subd. (a).)" (*People v. Hill* (2011) 191 Cal.App.4th 1104, 1118.) The trial court's discretion in this regard " 'is necessarily broad[,] ' " (*People v. Castaneda, supra*, 51 Cal.4th at p. 1336), and the trial court's determination that a witness qualifies as an expert "will not be disturbed without a showing of manifest abuse. (*People v. Mendoza* (2000) 24 Cal.4th 130, 177.) 'Error regarding a witness's qualifications as an expert will be found only if the evidence shows that the witness " ' "clearly lacks qualification as an expert." ' ' " [Citation.]' (*People v. Farnam* (2002) 28 Cal.4th 107, 162)" (*People v. Hill, supra*, 191 Cal.App.4th at p. 1118.)

Detective O'Donnell testified that he was a 14-year veteran of the LAPD. He had been a detective for six years and had participated in over 30 homicide

investigations, including "four to five different investigations where the crime scene was the vehicle itself, meaning the victim was killed inside the vehicle." One of his responsibilities in a homicide investigation is to "collect, document and analyze the evidence recovered from the scene" This often requires him to scrutinize bloody crime scenes in an effort to "piece together the puzzle, if you will, of how the death occurred." O'Donnell continued his testimony by describing conditions inside the victim's car and opining that she was seated in the driver's seat when she was killed. The driver's seat was then fully reclined and the headrest was removed. Figueroa's body was pulled from the driver's seat into the back seat and from there, pulled through the "pass through" into the trunk. O'Donnell also opined that a chip on the interior of the windshield was caused when the murder weapon hit the windshield "during a back-swing."

In *People v. Prince* (2007) 40 Cal.4th 1179, a 13-year veteran of the FBI qualified to testify as an expert on crime scene analysis and "signature crimes." In the five years prior to trial, the FBI special agent had been assigned to its National Center for the Analysis of Violent Crime. (*Id.* at p. 1220.) His training included advanced courses in criminology and criminal investigation analysis, and his job duties included reviewing the records of hundreds of criminal investigations and offering advice and assistance to local law enforcement agencies. (*Id.*) Our Supreme Court held the special agent was properly qualified as an expert witness on crime scene analysis and that the trial court did not abuse its discretion when it allowed the special agent to testify that, in his opinion, six murders were committed by the same person because they all had common "signature" features. (*Id.* at pp. 1220-1222.)

Although Detective O'Donnell has not had the same sort of advanced classroom training as the FBI special agent at issue in *Prince, supra*, his qualifications compare favorably to that witness. Like the FBI special agent, Detective O'Donnell had 13 years of law enforcement experience. Unlike the special agent, Detective O'Donnell's experience included six years as a homicide investigator during which he personally investigated 30 homicides, at least four of which occurred inside a vehicle.

O'Donnell's testimony did not require him to analyze forensic tests, blood splatter or DNA. It required him to describe the physical condition of the car's interior and show the jury how the condition of the car allowed him to draw inferences concerning the location and manner of the killing. Because Detective O'Donnell had extensive experience in reviewing crime scenes and determining the manner in which homicides occurred, the trial court properly allowed him to offer expert testimony on those issues. (*People v. Mendoza, supra*, 24 Cal.4th at p. 177.)

Conclusion

The judgment is affirmed

YEGAN, J.

We concur:

GILBERT, P.J.

PERREN, J.

Martin Larry Herscovitz, Judge
Superior Court County of Los Angeles

Thomas Ono, under appointment by the Court of Appeal, for Defendant and Respondent.

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