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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

CHARLES SHANNON RAVERT,

Defendant and Appellant.

B293387

(Los Angeles County  
Super. Ct. No. MA073786)

APPEAL from a judgment of the Superior Court of Los Angeles County. Robert G. Chu, Judge. Affirmed.

Katja Grosch, 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, Zee Rodriguez and Paul S. Thies, Deputy Attorneys General, for Plaintiff and Respondent.

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Charles S. Ravert appeals the judgment entered following a jury trial in which he was convicted of attempted battery by gassing. (Pen. Code,<sup>1</sup> §§ 664/243.9, subd. (a).) The trial court sentenced appellant to 18 months in county jail. Appellant contends there was insufficient evidence that he intended to hit the jailer with his feces. We disagree and affirm the judgment of conviction.

### **FACTUAL BACKGROUND**

On March 16, 2018, around 3:00 p.m. appellant was arrested for public drunkenness and brought into the Lancaster sheriff's station, where he was booked and placed in a male detox cell by himself.

Brenda Moore was on duty as a custody assistant jailer at the Lancaster sheriff's station that day when appellant was brought into the jail. Appellant was belligerent and appeared to be under the influence when deputies brought him in and walked him to the back of the jail to his cell. After deputies had left appellant unhandcuffed in his cell, Moore asked appellant if he would like something to eat or drink. Appellant said he did, and Moore left the cell block to go to the kitchen in the administrative area of the station.

In order to enter or leave the jail area of the station, an authorized person must be buzzed through a locked door. The buzzer is extremely loud and can be heard all the way in the back of the jail. When Moore returned to the jail area with appellant's food and drink, Moore's partner pressed the button to open the door and let her in, which sounded the buzzer. Moore was also

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<sup>1</sup> Undesignated statutory references are to the Penal Code.

carrying keys on her belt, which made a distinctive noise with every movement.

After going through the door, Moore took two steps down the corridor toward appellant's cell. As she was about to turn the corner, feces came flying through the air directly in front of her and hit the wall. If Moore had taken one step farther, the excrement would have hit her.

Appellant testified that during the four-hour period after his arrest before he was left alone in his cell, the police did not allow him to use a rest room despite multiple urgent requests. Moore came into appellant's cell and assisted in removing his jewelry. Appellant did not hear Moore ask him if he wanted anything to eat or drink. After Moore left the cell, appellant finally used the toilet, only to find there was no toilet paper. At this point he became extremely angry. Intending to prove that he had really needed to use the toilet, appellant scooped the feces up in his left hand.

Appellant testified that he threw the feces through the slot in his cell door into the hallway and onto the wall, trying to avoid getting any on the files that were there. He also averred that he simply tossed the feces onto the ground. In any event, he never intended to hit Moore and did not even know she was in the building after she left his cell. Claiming that "the jail makes a lot of weird noises," appellant also did not recall ever hearing any kind of a buzzer.

About two minutes passed after appellant tossed the feces onto the ground before he heard Moore in the corridor say, " 'Oh, my God.' "

## DISCUSSION

### **Substantial Evidence Supports Appellant's Conviction for Attempted Battery by Gassing**

Appellant challenges his conviction on the ground that the evidence was insufficient to support an inference that he had the requisite specific intent to hit anyone with his excrement when he threw it out of his jail cell. We disagree.

#### *A. Applicable law*

A conviction for attempted battery by gassing requires that the prosecution prove the defendant attempted but failed to intentionally throw “upon the person of another, any human excrement . . . that results in actual contact with the person’s skin or membranes.” (§§ 664, 243.9, subd. (b).) To be guilty of an attempt, the defendant must have the specific intent to commit the crime, and carry out a direct but ineffectual act toward its commission. (§ 21a [“An attempt to commit a crime consists of . . . a specific intent to commit the crime, and a direct but ineffectual act done toward its commission”]; *People v. Johnson* (2013) 57 Cal.4th 250, 258.)

As our Supreme Court has explained on countless occasions, the appellate court’s task in determining the sufficiency of the evidence to support the jury’s verdict is to “review the entire record in the light most favorable to the judgment to determine whether it contains evidence that is reasonable, credible, and of solid value from which a trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.] Our review must presume in support of the judgment the existence of every fact the jury could reasonably have deduced from the evidence.” (*People v. Zaragoza* (2016) 1 Cal.5th 21, 44 (*Zaragoza*); *People v. Manibusan* (2013) 58 Cal.4th 40, 87.)

With regard to proof of intent, our Supreme Court has observed that “[b]ecause direct evidence of a defendant’s intent rarely exists, intent may be inferred from the circumstances of the crime and the defendant’s acts.” (*People v. Sánchez* (2016) 63 Cal.4th 411, 457.) Thus, even where the evidence of the defendant’s state of mind is entirely circumstantial, “our task is not to resolve credibility issues or evidentiary conflicts, nor is it to inquire whether the evidence might reasonably be reconciled with the defendant’s innocence. [Citations.] It is the duty of the jury to acquit the defendant if it finds the circumstantial evidence is susceptible to two interpretations, one of which suggests guilt and the other innocence. [Citation.] But the relevant inquiry on appeal is whether, in light of all the evidence, ‘any reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt.’” (*Zaragoza, supra*, 1 Cal.5th at p. 44.) Indeed, “‘[a] reversal for insufficient evidence “is unwarranted unless it appears ‘that upon no hypothesis whatever is there sufficient substantial evidence to support’” the jury’s verdict.’” (*People v. Penunuri* (2018) 5 Cal.5th 126, 142.)

*B. Analysis*

Here, Moore’s testimony provided substantial evidence to support the jury’s finding on the issue of intent. Appellant said he would like some food and something to drink, whereupon Moore left his cell to fulfill the request. When Moore returned with the food, the buzzer that could be heard throughout the cell block sounded, indicating an authorized person had entered the corridor. In addition, every time Moore took a step, the keys hanging from a clip on her belt made a sound. The jury could reasonably infer that appellant heard these sounds, and having been escorted down the same hallway to his cell, knew that

someone was just steps away from his line of fire. Moreover, appellant did not simply drop the excrement on the ground or “toss” it outside of his cell, but threw it with enough force to hit the wall in the hallway right in front of Moore. If Moore had taken just one step farther, appellant’s thrown feces would have hit her. On the strength of this evidence, the jury could certainly surmise that appellant timed his throw to hit the person walking down the hallway with his feces.

Pointing to the question the jury submitted during deliberations,<sup>2</sup> appellant asserts that the jury had doubts about whether appellant knew *anyone* was approaching. But given the trial court’s response and the speed with which the jury then rendered its verdict,<sup>3</sup> it appears far more likely that, while the jury may have been skeptical of appellant’s intent to hit *Moore* with his feces, it had no difficulty finding that appellant intended to hit whomever was walking down that hallway.

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<sup>2</sup> During deliberations the jury asked, “Is the verdict to be based [solely] on the attempted gassing in general or attempted gassing to Brenda Moore”? The trial court initially responded, “It’s to be based on the attempted gassing of Brenda Moore.” Subsequently the jury was instructed to completely disregard that answer and to refer instead to CALCRIM No. 460 on attempt and CALCRIM No. 2722, defining the crime of battery by gassing.

<sup>3</sup> The jury retired to deliberate at 9:59 a.m. At 10:24 a.m., the jury submitted its question, and the court gave its initial response at 10:52 a.m. At 11:50 a.m., after the court and counsel conferred, the trial court revised its answer to the question. Jury deliberations resumed at 11:53 a.m., and two minutes later, at 11:55 a.m., the jury indicated it had reached a verdict.

Even fully crediting appellant’s testimony that he did not intend to hit anyone with his excrement but threw it only to show he “really had to use the restroom” would not warrant reversal of the jury’s verdict given the substantial evidence supporting the jury’s finding as to appellant’s intent. (*People v. Mendoza* (2011) 52 Cal.4th 1056, 1069 [“When the circumstances reasonably justify the jury’s findings, a reviewing court’s opinion that the circumstances might also be reasonably reconciled with contrary findings does not warrant reversal of the judgment”].)

**DISPOSITION**

The judgment is affirmed.

NOT TO BE PUBLISHED.

LUI, P. J.

We concur:

ASHMANN-GERST, J.

CHAVEZ, J.