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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.

RYAN CRAIG STEVENS,

Defendant and Appellant.

2d Crim. No. B277917
(Super. Ct. No. 1443276)
(Santa Barbara County)

A jury convicted Ryan Craig Stevens of attempted rape (Pen. Code, §§ 664/261, subd. (a)(2)¹; count 1) and false imprisonment (§ 236; count 2). The trial court found true prior conviction allegations. The court sentenced him to 25 years to life in prison for attempted rape and added a consecutive 7-year term on the prior conviction allegations.

Stevens argues the attempted rape conviction should be reversed because there is insufficient evidence of specific intent to rape the victim. We affirm.

¹ Unspecified statutory references are to the Penal Code.

FACTS

Jane Doe 1's Testimony

Fifteen-year-old Jane Doe 1 was drinking at Habit Burger in downtown Santa Barbara with her friends and Stevens. She had been drinking all day and was "extremely intoxicated." At some point, she left the group to go to Rite Aid for more alcohol, and Stevens followed her.

When they approached Rite Aid, Stevens told Doe 1 to get off State Street and pulled her to "somewhere dark." The floor was concrete and there was possibly a dumpster nearby. He pushed her down, got on top of her and took off her pants. While he held her down by her arms, he put his mouth on her breasts and his penis in her vagina.

After Stevens got off her, she called a friend for help around 8:30 p.m. Her friends met her, and she told them that she had been raped.

Other Prosecution Evidence

Later that night, Doe 1 recorded a statement on her friend's phone. She said that she and Stevens walked together to go buy alcohol. They went into a dark alley, where he told her how beautiful she was and how he wanted to be with her. The "next thing [she] knew [her] pants were down," and he was "trying" to put his penis inside her. She tried pushing him off, but was unsuccessful.

The next day, Doe 1 went to a clinic for a rape examination. She told the nurse examiner that Stevens grabbed her arms and shoulders and held her down. She said he tried "making out with" her, touched her breasts, and put his penis in her vagina. The nurse examiner applied cotton swabs on her

body for DNA analysis. The samples taken from her breasts were consistent with Stevens's DNA.

After the examination, she told a police officer that she was walking to the store with Stevens when he started "dragging" her and telling her that they needed to get off State Street. She said he pulled her to a dark area "either by a dumpster" or "like a building of some sort," and he pushed her down. He got on top of her, pulled her pants down to her ankles, and "pinned" her down by her arms. He touched her breasts and put his penis in her vagina.

Stevens was wearing a global monitoring system (GPS) ankle monitor on the night of the incident. The GPS data from his ankle monitor shows he was at or near Habit Burger from 7:45 to 8:02 p.m. From 8:16 to 8:19 p.m., he was up the street, near the Rite Aid. Around 8:24 p.m., he moved off State Street, and from 8:27 to 8:31 p.m., he remained within a small area between some buildings west of State Street. Around 8:32 p.m., he began moving again.

A police officer walked the area following the same time and GPS coordinates. From 8:26 to 8:30 p.m., the officer was in a parking lot behind some businesses on State Street. There were several dumpsters in the area, and two dumpster enclosures. One of the enclosures was in an alley. There was "minimal pedestrian traffic in this lot near the dumpster enclosures."

Prior Rape Convictions

In 1988, Stevens met 17-year-old Jane Doe 2. After drinking with her friends, he offered her a ride home. He took her to "T.V. Hill" where he told her they would have sex. When she refused, he grabbed her and said, "You can't do anything."

He forced her to perform oral sex and told her to take off her clothes. He put his mouth on her breasts, got on top of her, and put his penis in her vagina.

Between 1985 to 1988, Stevens raped Jane Doe 3 multiple times. The first time, he invited 12-year-old Doe 3 to a recording studio. While they were alone, he made sexual advances. When she rejected him, he pushed her and forced her to have sex with him. On another occasion, he offered to walk her home after her friends left. They had sex against her will.

Stevens admitted raping both Doe 2 and Doe 3.

DISCUSSION

Rape is “an act of sexual intercourse . . . [¶] . . . against a person’s will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury.” (§ 261, subd. (a)(2).) Attempted rape has two elements: (1) the specific intent to commit rape and (2) a “direct but ineffectual act done toward its commission.” (*People v. Guerra* (2006) 37 Cal.4th 1067, 1130 (*Guerra*), overruled on other grounds in *People v. Rundle* (2008) 43 Cal.4th 76.) Specific intent may be inferred by circumstantial evidence. (*Ibid.*)

Stevens contends the evidence is insufficient to support a finding of specific intent to commit rape. We review for substantial evidence. In doing so, we view the record in the light most favorable to the judgment and presume the existence of every fact the jury could reasonably deduce from the evidence in support of the judgment. (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) We do not reweigh the evidence or reassess the credibility of the witnesses. (*People v. Houston* (2012) 54 Cal.4th 1186, 1215.)

Doe 1's testimony, her statements to police officers and medical personnel, the GPS records, DNA evidence, and admission to two prior rapes all support the finding that Stevens had the specific intent to rape Doe 1. Doe 1 said that Stevens pulled her away from State Street and took her to a dark area, where he pushed her down, got on top of her, and pulled her pants down. She tried to resist, but he held her down by her arms, put his mouth on her breasts and sexually assaulted her. The GPS evidence shows that he pulled her off State Street and into a dark alley with "minimal pedestrian traffic" shortly before he assaulted her. The DNA sample collected from Doe 1's breasts matched his DNA.

Moreover, a jury could reasonably infer Stevens's intent based on his prior rapes. As with Doe 1, he assaulted two underage women against their will after he isolated them in secluded locations. Substantial evidence amply supports the jury's finding that Stevens had the specific intent to rape Doe 1 when he sexually assaulted her.

DISPOSITION

The judgment is affirmed.

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TANGEMAN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

John F. McGregor, Judge

Superior Court County of Santa Barbara

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Appeal, for Defendant and Appellant.

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