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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

FRANK E. BOYD,

Defendant and Appellant.

B279418

(Los Angeles County
Super. Ct. No. BA413763)

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

Murray A. Rosenberg, 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, Margaret E. Maxwell and Douglas L. Wilson, Deputy Attorneys General, for Plaintiff and Respondent.

Defendant and appellant Frank E. Boyd participated in a scheme masterminded by his former girlfriend, Tresa Abdel-Razek, to defraud a taxpayer-funded child care reimbursement program. Boyd was convicted of conspiracy, grand theft, and perjury by declaration. Sentenced to seven years in prison, Boyd appeals, contending the trial court prejudicially erred by excluding evidence. We affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

1. *Facts*

a. *The child care subsidy program*

As part of California's "welfare-to-work," or CalWORKs, program, persons receiving public assistance may be eligible to receive child care subsidies. As relevant here, the child care subsidy program is administered by the Los Angeles County Department of Public Social Services (DPSS) and the California Department of Education (CDE). In the Los Angeles area, the DPSS and the CDE contract with 13 private agencies, each of which covers a different geographic area, to determine eligibility and issue payments. One such agency is Crystal Stairs, a nonprofit child care and development program, which provides services in the Inglewood area.

Crystal Stairs determines parents' eligibility for child care subsidies. To be eligible, a parent must show financial need; must either be employed or in school; and must have a child or children being cared for in an approved day care facility. Crystal Stairs verifies parents' employment by means of verification forms and letters signed by the employer. Crystal Stairs may also confirm employment by telephoning the employer.

To be eligible to participate in the child care subsidy program, a child care provider must be approved by Crystal

Stairs. The provider generally must be licensed by the State of California,¹ must execute a provider agreement, a fee and policy statement, and a fraud policy, and must attend an orientation. If the child care facility is a family home child care, the provider must live at the facility and be present 80 percent of the time.

Payments for child care services are made by Crystal Stairs directly to child care providers. To obtain payment, providers must present to Crystal Stairs attendance records for each child. Parents must sign their children in and out of the facility each day. At the end of the month, the parents and the child care provider sign an attendance record, which the provider then submits to Crystal Stairs for payment. Crystal Stairs pays child care providers by check, debit card, or direct deposit, as elected by the provider.

b. *Boyd's employment, business, and relationship with Abdel-Razek*

Boyd worked for the Los Angeles County Probation Department from 1989 until October 2014. However, his employment was interrupted by long periods during which he was disabled due to industrial injuries; consequently, he actually worked only approximately eight years during his period of employment. Between January 2005 and October 2008, Boyd was not being paid by the Probation Department.

During his employment, Boyd reported his addresses, phone numbers, and outside employment to the Probation Department, as required by department policy. Over the years,

¹ A facility need not have such a license if the child care provider is a relative or friend of the child or parent.

Boyd reported two home addresses in Hawthorne and one in Redondo Beach.

In August 1996, Boyd filed a fictitious business name statement for “Ballin Out of Control,” a business located at one of his Hawthorne residence addresses. He reported to the Probation Department that he was, at various times, a sales representative for the company and its president. According to Boyd’s trial testimony, the company was in the business of printing and selling T-shirts bearing a “Much Gain” logo, which Boyd had trademarked. Ballin Out of Control had no employees other than Boyd.

Boyd and Abdel-Razek met sometime in the mid-1980’s or early 1990’s when they were attending community college. They began a romantic liaison, and had a son, R., together. In 2005, they were still in a boyfriend-girlfriend relationship. Their relationship ended sometime thereafter, during or prior to 2008.² Boyd had another son, B., born in approximately 1992, to a different mother.

c. The welfare fraud conspiracy

In 2005, Abdel-Razek ran a licensed family child care center called Tattle Tale Child Care, located in Inglewood. She engaged in a fraudulent scheme with parents and other day care providers in which she submitted falsified employment verifications, attendance records, and other documents to Crystal Stairs in order to obtain child care payments for children who were not actually being cared for, or whose parents were not actually employed. Abdel-Razek gave the parents or providers

² At the time of trial in 2016, Abdel-Razek’s boyfriend was Kevin Twain Williams.

who had assisted in falsifying such documents a share of the child care monies she received from Crystal Stairs.³

In 2005, Boyd approached Abdel-Razek and said, “ ‘You always make money with other people, why aren’t you making money with me?’ ” They agreed that he would obtain a license to open a family child care business at a house owned by Abdel-Razek’s mother, Carol McNeal, located at 8940 12th Avenue in Los Angeles. They agreed to seek child care payments from Crystal Stairs for children who were not actually attending or whose parents were not employed, and then share the proceeds.⁴ Boyd received between 20 and 50 percent of the monies generated.

Boyd attended a Crystal Stairs orientation on October 12, 2006. He applied for a Family Child Care Home License with the California Department of Social Services on January 3, 2007. After an on-site evaluation conducted on March 27, 2007, Boyd was issued a license to operate “Boyd III Family Child Care,” at the 12th Avenue location, effective April 4, 2007. Boyd signed Crystal Stairs’s “Provider Fraud Policy” on April 20, 2007. Among other things, that document defined fraud as intentionally giving misinformation, and accepting payment for

³ Abdel-Razek pled no contest to conspiracy and was sentenced to six years in prison; she was also ordered to pay over \$1 million in restitution. By the time of Boyd’s trial in 2016, she was apparently no longer in custody.

⁴ Abdel-Razek described their agreement as follows: “The illegal process is the children would come or they would not come. The job verifications would be done, or the parent would really work and they would not bring their children, and then there would be a split.”

services which he did not provide. On May 30, 2007, Boyd signed a provider services agreement with Crystal Stairs. Boyd never actually opened the facility and never provided child care services there. In March 2007, while he was attempting to obtain the child care license, he placed a down payment on a Redondo Beach apartment. He signed a lease on the apartment on April 1, 2007, and moved prior to the start of the 2007–2008 school year because he wanted to place his son, B., in the Redondo Beach school district. Boyd never reported to the Probation Department that he was running a child care business.

Between 2005 and 2008, with Boyd’s knowledge and approval, Abdel-Razek submitted numerous employment verifications to Crystal Stairs indicating that certain parents were employed by Boyd at Ballin Out of Control or Boyd III Family Child Care. Abdel-Razek signed Boyd’s name to most of the documents. Abdel-Razek explained that she and Boyd agreed he would verify employment for Mia Hadnot, Ana Molina, Jasmine Archie, Bridget Jackson Asirifi, and Shenessa Merriweather. None of the parents for whom Boyd verified employment actually worked for him.⁵ Boyd gave her permission to sign his name. She advised Boyd that he would receive follow-up phone calls from Crystal Stairs personnel to confirm the employment verifications, and she provided the information he needed to know to do so. She explained: “The understanding is

⁵ Employment verification forms and letters submitted to Crystal Stairs between 2005 and 2008 indicated that Merriweather, Hadnot, Latasha White, Molina, Janese Johnson, Asirifi, Archie, and two other parents were employed by Boyd at either Ballin Out of Control or the Boyd III Family Child Care facility. The documents were signed with Boyd’s name.

in order to get the check, time sheets had to be signed, employment verifications had to be signed, he [Boyd] gave me permission to sign his name, he got copies of documents that he needed to verify over the phone when he got called so he knew – he saw his signature signed as well.”

Four Crystal Stairs employees testified that, during 2006 and 2007, they called the numbers listed for Boyd on employment verification forms for Merriweather, Hadnot, Archie, and Molina. A man identifying himself as Boyd confirmed that Merriweather and Hadnot worked for him at Ballin Out of Control, and Archie and Molina worked for him at the Boyd III Family Child Care facility.⁶ Crystal Stairs did not schedule or give advance notice of employment verification calls.

Abdel-Razek also submitted falsified attendance records indicating certain children were being cared for at Boyd’s child care facility. Crystal Stairs paid \$81,166.40 for child care purportedly provided by Boyd III Family Child Care to six families during 2007 and 2008.

On April 23, 2007, Boyd and Abdel-Razek visited a Washington Mutual bank branch and opened a joint checking account. On June 8, 2007, Boyd filed paperwork with Crystal Stairs requesting that all child care payments due to him be

⁶ The verification forms listed three phone numbers for Boyd. Boyd admitted that two of those numbers were his. Additionally, he had provided those numbers to either the Probation Department, the bank, his Redondo Beach landlord, or a friend who testified as a character witness at trial. Boyd listed the third number on his Crystal Stairs agreement. Telephone records reflected that two of the verification calls were made from Crystal Stairs employees’ telephone lines to Boyd.

deposited directly into the joint account. Between September 28, 2007 and February 22, 2008, Boyd wrote seven checks to himself or to “cash,” totaling \$8,200. On the 20th of each month, Abdel-Razek transferred her portion of the Crystal Stairs proceeds from the joint account to her personal account, and left Boyd’s portion in the joint account.

d. *The investigation, search of Boyd’s home, and subsequent convictions*

Patricia Iniguez, a supervising Welfare Fraud Investigator employed by the DPSS, was given a referral in July 2009, prompting her to scrutinize the Boyd III Family Child Care business. Iniguez visited the 12th Avenue address and discovered the “location was empty. There [were] no signs of any child care labeled on the door, on the walls. There was no traffic at all for — any visibility of child care being open at that location at that house.” Her suspicions aroused, she initiated an investigation.

On June 21, 2012, authorities executed a search warrant at Boyd’s Redondo Beach apartment. In a closet in Boyd’s bedroom, an investigator discovered an accordion file containing documents related to the welfare fraud conspiracy. Included were a provider identification form for Bridget Jackson Asirifi, indicating that her children were being cared for at the Boyd III Family Child Care; an employment verification form and a letter for Shenessa Merriweather, with a handwritten note from Abdel-Razek asking Boyd to verify Merriweather’s employ; an employment verification letter signed with Boyd’s name, indicating Boyd employed La Tasha Phillips, with a post-it note from Abdel-Razek asking Boyd to verify Phillips’s employ; a copy of a federal tax form 1099 showing Boyd paid \$20,809 to Abdel-Razek; and two envelopes.

In addition to Abdel-Razek, at least nine participants in the fraud scheme pled guilty or no contest to grand theft, perjury, or conspiracy. The payments from Crystal Stairs to all participants in the scheme totaled \$2,570,561.47.

e. *Boyd's defense*

(i) *Boyd's testimony*

Boyd testified in his own defense, as follows. He and Abdel-Razek had a relationship that lasted over 20 years, and was “up and down.” He denied knowingly participating in Abdel-Razek’s welfare fraud scheme. He never signed any of the employment verifications or attendance records that purportedly bore his signature. He was aware she ran a day care facility and acted as a consultant to other day care providers, but believed her activities were legal. In 2006, when he was unemployed due to his industrial injury, he and his son B. moved into Abdel-Razek’s mother’s 12th Avenue house, where they stayed without paying rent. Abdel-Razek asked him to assist with opening a day care center at the residence as a “backup plan” to his probation career. He filled out the requisite paperwork, attended the orientation, and met with Crystal Stairs personnel to set up the facility. He understood that, if he actually operated the day care, he was required to live there and spend 80 percent of his time there. However, he never opened the child care center and no children were ever cared for at the facility. He rented the Redondo Beach apartment and kept belongings at both residences until he and B. fully moved to Redondo Beach before B.’s school began in the fall of 2007.

He admittedly set up the joint checking account with Abdel-Razek, but believed the money in the account was transferred in by Abdel-Razek from her account. He admittedly

wrote the checks drawing money from the account, but thought that the money was a gift from Abdel-Razek, who told him how much he could withdraw and when. She was assisting him financially because he was “in a transitional state,” was unemployed, and had not been accepted back by the Probation Department, whereas Abdel-Razek had “big money.” Boyd admittedly filled out the direct deposit form authorizing Crystal Stairs to directly deposit funds into the joint checking account.

When Boyd moved from the 12th Avenue house, he left clothing and other items, including the accordion file later found in his Redondo Beach apartment, at the 12th Avenue house, because Abdel-Razek was “being a little bit aggressive.” However, he also testified that during the time period when he moved out, he was getting along with Abdel-Razek. Later, he found a large box containing his property, including the accordion file, on the front porch at his Redondo Beach apartment. He sorted out the items in the box, but placed the accordion file in the closet without examining the contents.

Although two of the telephone numbers on the verification forms were admittedly his, Boyd never received a telephone call from anyone at Crystal Stairs and never provided employment verifications over the phone. Abdel-Razek frequently visited his Hawthorne apartment, accompanied by her brother, her contractor, her “car wash guy,” and her boyfriend. In fact, she was “there most of the time.” Boyd did not carry his cellular telephone with him all the time, and sometimes left it at the apartment when Abdel-Razek and her entourage were there. Abdel-Razek “bullied” him regarding the cell phone. Boyd explained, “I was in a situation where I was in need financially and she . . . was threatened by my other son’s mother so she

would try to ensure that other people wouldn't call," and held on to Boyd's phone.

(ii) *Character witnesses*

Boyd presented the testimony of four character witnesses, who attested to his good reputation for honesty and integrity in the community. None of the witnesses was aware that Boyd had applied to run a child care agency.

2. *Procedure*

A jury convicted Boyd of conspiracy to commit a crime (Pen. Code, § 182, subd. (a)(1)),⁷ grand theft of personal property (§ 487, subd. (a)), and 15 counts of perjury by declaration (§ 118, subd. (a)). As to each offense, the jury found Boyd had engaged in a pattern of related felony conduct involving the taking of, or resulting in the loss of, over \$500,000 and over \$100,000 (§ 186.11, subds. (a)(2) & (a)(3)) and intentionally took, damaged, and destroyed property of a value exceeding \$1,300,000 (former § 12022.6, subd. (a)(3)). The jury found true 15 of 18 alleged overt acts. It also found that at least one of the alleged overt acts was committed after July 19, 2010, and that each of the other counts was not completed, discovered, nor should have been discovered, before that date. The trial court sentenced Boyd to seven years in prison. It ordered him to pay \$1,511,525.34 in restitution, based on his joint and several liability with Abdel-Razek and two other co-conspirators. It imposed a restitution fine, a suspended parole revocation restitution fine, a criminal conviction assessment, and a court operations assessment. Boyd filed a timely notice of appeal.

⁷ All further undesignated statutory references are to the Penal Code.

DISCUSSION

The trial court properly excluded evidence of Abdel-Razek's alleged prior vandalism of Boyd's property

Boyd contends the trial court abused its discretion by excluding evidence, pursuant to Evidence Code section 352, that Abdel-Razek vandalized his car and apartment sometime during the 1990's. He asserts that exclusion of this evidence violated his rights to due process and to present a defense, requiring reversal of his convictions. We disagree.

1. Additional facts

During Boyd's direct examination, defense counsel displayed three photographs, which apparently showed damage to a car Boyd previously owned, and asked Boyd what had happened to the car. Boyd answered, "It was confessed to me by Tresa." The prosecutor's hearsay objection was sustained, prompting a sidebar discussion. Defense counsel asserted evidence that Abdel-Razek had vandalized Boyd's vehicle was relevant because Abdel-Razek had testified, during cross-examination, that she loved Boyd, who was the father of her child. Evidence she vandalized his vehicle was inconsistent with that testimony. Boyd's testimony was not hearsay, counsel averred, because it was being offered to show Boyd's state of mind rather than for the truth of the matter asserted. The prosecutor argued that defense counsel had neglected to question Abdel-Razek about the prior vandalism incident during her testimony, and the incident was unrelated to the charged offenses and irrelevant.

When defense counsel was unable to answer the trial court's query as to when the vandalism occurred, the court conducted an Evidence Code section 402 hearing out of the jury's

presence. Boyd testified as follows. He did not recall when the vandalism occurred, but estimated it was during the 1990's, sometime between 1994 and 2000, while he and Abdel-Razek were involved in a romantic relationship.⁸ Abdel-Razek vandalized his vehicle, causing it to be a total loss. She confessed responsibility in a series of phone calls, during which she "continued on with her tirade." During the same period, Abdel-Razek vandalized Boyd's apartment, destroying clothing, compact disks, and mirrors. Boyd estimated that the resulting loss amounted to \$20,000 or \$30,000. Abdel-Razek subsequently reimbursed Boyd for the damages. She "made right" with an "upside down balance" that had existed on the vehicle, and gave Boyd money for a down payment on a new vehicle. She purchased new clothing and replaced other items to reimburse Boyd for the damage she caused to property in his apartment.

The trial court excluded the evidence under Evidence Code section 352. The vandalism was remote in time, occurring years before the alleged 2007–2008 fraud. The evidence was likely to confuse the jury, was not relevant to Abdel-Razek's credibility, and was unduly prejudicial. The court reasoned that the evidence was "very marginal as far as being impeachment evidence. . . . The fact that they were having these fights and whatever they were doing, I don't know how that really directly impacts whether or not he's engaging in some kind of fraud in 2007 with this woman." When defense counsel pointed out that Abdel-Razek's conduct involved "extreme vandalism," the court replied: "Right. . . . It's very prejudicial to the witness, and I

⁸ The trial court subsequently noted that the photographs appeared to be dated 1988 and 1993.

think it's so remote in time and so marginally relevant that that is exactly why I'm not letting it in. It's being done to throw dirt on the witness, and for the probative value it's practically not significant."

2. *Applicable legal principles*

Only relevant evidence is admissible. (Evid. Code, § 350.) " 'Relevant evidence' means evidence, including evidence relevant to the credibility of a witness or hearsay declarant, having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." (Evid. Code, § 210; *People v. Jackson* (2016) 1 Cal.5th 269, 330.) Relevant evidence may be excluded under Evidence Code section 352 "if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury." (Evid. Code § 352; *People v. Jackson*, at p. 330; *People v. Lee* (2011) 51 Cal.4th 620, 643.)

A trial court has broad discretion in determining whether evidence is relevant and whether Evidence Code section 352 precludes its admission, but lacks discretion to admit irrelevant evidence. (*People v. Jackson, supra*, 1 Cal.5th at p. 330; *People v. Williams* (2013) 58 Cal.4th 197, 270-271; *People v. Cowan* (2010) 50 Cal.4th 401, 482.) We apply the abuse of discretion standard to a trial court's rulings on admissibility, and a court's decision to exclude evidence will not be disturbed except upon a showing it exercised its discretion in an arbitrary, capricious, or patently absurd manner that resulted in a manifest miscarriage of justice. (*People v. Jackson*, at p. 330; *People v. Fuiava* (2012) 53 Cal.4th 622, 667–668; *People v. Lee, supra*, 51 Cal.4th at p. 643.)

A criminal defendant has a federal constitutional right to a meaningful opportunity to present a defense. (*People v. Gonzales* (2012) 54 Cal.4th 1234, 1258; *People v. Cash* (2002) 28 Cal.4th 703, 727; *Crane v. Kentucky* (1986) 476 U.S. 683, 690.) However, a state court’s application of the ordinary rules of evidence generally does not infringe upon this right. (*People v. O’Malley* (2016) 62 Cal.4th 944, 995–996; *People v. Thornton* (2007) 41 Cal.4th 391, 443.) The federal Constitution permits judges to exclude evidence that is only marginally relevant or that poses an undue risk of prejudice. (*People v. Gonzales*, at p. 1259.)

3. Discussion

The trial court did not abuse its discretion here, because the evidence in question was only marginally relevant to any issue in the case. That Abdel-Razek allegedly vandalized Boyd’s car and apartment 7 to 14 years before the charged offenses and 16 to 22 years before trial had little, if any, probative value. Evidence of the vandalism was unrelated to any charge in the case, did not significantly undermine Abdel-Razek’s testimony, and did not exculpate Boyd. As the trial court correctly reasoned, the alleged vandalism had no bearing on the question of whether Boyd knowingly engaged in fraud with Abdel-Razek years later.

Boyd argues that the excluded evidence was crucial to establish his defense, i.e., that while he was “financially vulnerable” Abdel-Razek “duped” him, involving him in a criminal enterprise without his knowledge. He posits that the vandalism evidence would have impeached Abdel-Razek’s testimony that he was a knowing participant in the conspiracy.

Not so. Neither defense counsel nor the prosecutor questioned Abdel-Razek regarding the prior incident; thus, the evidence of her conduct would not have directly impeached any of

her trial testimony. Nor would the prior incident have added much to the jury's evaluation of Abdel-Razek's credibility or character for honesty. While felony vandalism is a crime of moral turpitude (*People v. Campbell* (1994) 23 Cal.App.4th 1488, 1492–1496), here it did not involve trickery, dishonesty, or fraud. And, it was undisputed that Abdel-Razek masterminded a sophisticated welfare fraud scheme involving multiple participants and millions of dollars — conduct that far more effectively and directly impeached her character for honesty.

Without providing citations to the record, Boyd argues that Abdel-Razek “represented to the jury that she would never lie to incriminate one she loved and therefore her testimony was to be believed.” Evidence she vandalized his property was inconsistent with her assertion that she loved him. But Abdel-Razek did not testify that she would never lie to incriminate someone she loved. Instead, when asked by defense counsel, “You don’t like Mr. Boyd very much, do you?” she replied, “I love Mr. Boyd. He’s . . . the father of my son. I love him.” Even construing the testimony as Boyd suggests, Abdel-Razek’s alleged vandalism of Boyd’s property somewhere between 16 and 22 years earlier said very little about her feelings for him at the time of trial. Among other things, Boyd testified that Abdel-Razek reimbursed him for the damage she caused; there was no evidence she repeated her behavior; much later, in 2007, Boyd lived at Abdel-Razek’s mother’s home rent-free; when he moved out of that property, he and Abdel-Razek were “getting along”; and in 2007 and 2008, Abdel-Razek gave him substantial sums of money to assist him when he was unemployed. Thus, Abdel-Razek’s explosion of temper years before had little bearing on her feelings for Boyd at time of trial. It simply does not follow that exclusion of the

evidence left the jury “with the false impression that [Abdel-Razek] cared enough for [Boyd] to be truthful,” as Boyd urges.⁹

Further, the alleged prior vandalism would have provided no meaningful support for the theory that Abdel-Razek duped Boyd. The prior conduct involved property damage and verbal outbursts, not dishonesty, trickery, or fraud. It is at least arguable that the excluded evidence would have suggested the opposite conclusion: if Boyd knew Abdel-Razek to be unpredictable and vicious, he would have been less likely to trust her. Evidence of Abdel-Razek’s temper and willingness to damage property did not demonstrate an inclination to trick others into engaging in fraud; the two offenses are distinct and indicate dissimilar character traits. As noted, there was already overwhelming and undisputed evidence that Abdel-Razek was dishonest and manipulative. Indeed, several other participants in the fraud scheme testified that they felt Abdel-Razek had tricked them. Nikita Harrell, for example, testified that Abdel-Razek “fooled” her, “tricked a lot of other people too,” and was a “pretty sharp woman.” Jasmine Archie likewise testified that Abdel-Razek “tricked” her, and Janese Johnson testified that Abdel-Razek “took advantage” of her. Boyd complains that the trial court “never grasped” the point that “there was no end of relationship dirt that might be dragged up” and “ignored how extreme [Abdel-Razek’s] actions were.” To the contrary, Boyd fails to grasp that Abdel-Razek’s “extreme” actions were largely

⁹ For the same reasons, to the extent Boyd intends to argue the evidence would have shown Abdel-Razek involved him in the scheme out of vengeance, this argument is not persuasive.

irrelevant, but were likely to be prejudicial exactly because they were extreme.

Nor did exclusion of the evidence impair Boyd's ability to present a defense. He was still free to put on evidence, and argue, that he was just an innocent dupe. Excluding defense evidence " " "on a minor or subsidiary point does not impair an accused's due process right to present a defense." ' [Citation.]" (*People v. Thornton, supra*, 41 Cal.4th at p. 443; *People v. Boyette* (2002) 29 Cal.4th 381, 428.)

Finally, even assuming *arguendo* the evidence should have been admitted, we discern no prejudice. Contrary to Boyd's contention that the exclusion of evidence amounts to structural error, or must be evaluated under the harmless-beyond-a-reasonable-doubt standard (*Chapman v. California* (1967) 386 U.S. 18), the erroneous exclusion of evidence requires reversal only where the error caused a miscarriage of justice — that is, if it is reasonably probable that appellant would have obtained a more favorable result had the evidence been allowed. (Evid. Code, § 354; *People v. Richardson* (2008) 43 Cal.4th 959, 1001; *People v. Watson* (1956) 46 Cal.2d 818, 836.)

For the reasons we have discussed, no such reasonable probability exists here. To reiterate: the vandalism was remote in time; did not directly impeach Abdel-Razek's testimony; and did not involve fraud or dishonesty. Thus, the excluded evidence did little or nothing to undercut Abdel-Razek's trial testimony, or show Boyd was likely duped by her. There was no evidence Abdel-Razek ever repeated her conduct, and whatever issues existed between her and Boyd in the 1990's appear to have been largely resolved by the time of the offenses and trial. The undisputed evidence demonstrated Abdel-Razek was hardly an

unimpeachable model of honesty; instead she masterminded an extensive fraud scheme,¹⁰ and the testimony of several other participants suggested she was capable of taking advantage of her associates. Moreover, there was strong evidence against Boyd apart from Abdel-Razek's testimony. Among other things, Boyd obtained a license for a day care center that he never operated and arranged for direct deposits from Crystal Stairs into a checking account from which he drew thousands of dollars. Four Crystal Stairs representatives completed telephone employment verifications under circumstances strongly suggesting that Boyd, rather than a hypothetical person using his phone, was the speaker. Documents evidencing the fraud were found in his closet. In light of the weak probative value of the vandalism evidence and the strong evidence of guilt presented at trial, it is not reasonably probable Boyd would have achieved a more favorable result had the vandalism evidence been admitted.¹¹

¹⁰ Boyd argues that part of Abdel-Razek's plea agreement must have been that she would testify against him. However, there is no such evidence in the record.

¹¹ In light of our conclusion, we do not reach the People's argument that the evidence properly could have been excluded as hearsay.

DISPOSITION

The judgment is affirmed.

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EDMON, P. J.

We concur:

LAVIN, J.

EGERTON, J.