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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.

STEPHEN JUSTIN GONZALES,

Defendant and Appellant.

B270538

(Los Angeles County  
Super. Ct. No. KA103159)

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

Robert H. Derham, 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, Shawn McGahey Webb and Nima Razfar,  
Deputy Attorneys General, for Plaintiff and Respondent.

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A jury convicted defendant and appellant Stephen Justin Gonzales of first degree murder. He appeals the judgment, contending the evidence was insufficient to support the jury's finding that the murder was premeditated and deliberate. We disagree, and affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

### 1. *The murder and investigation*

Viewed in accordance with the usual standards governing appellate review (*People v. Johnston* (2003) 113 Cal.App.4th 1299, 1303–1304), the evidence relevant to the issues presented on appeal established the following.

Vanhxay Inthicack was born a male, but began living as a woman in 2009, using the name Melony. Inthicack was anatomically male. She was small in stature, standing 4 feet 11 inches tall and weighing 117 pounds. She lived at the Grand Park Inn in Baldwin Park, in room 132, and worked as a prostitute, entertaining clients in her room. She advertised her services on an Internet website, “Backpage.” Her best friend was Leticia Alvarado, who worked at the Inn's front desk. Alvarado and Inthicack spoke every day and usually breakfasted together on weekdays. Inthicack kept a large folding knife in her room to cut lemons; she normally kept it closed.

#### a. *The murder and discovery of Inthicack's body*

A Backpage advertisement placed by Inthicack on September 8, 2013, identified her as transsexual and listed her height and weight. Gonzales accessed Inthicack's advertisement using his cellular telephone. Between 9:42 p.m. and 10:25 p.m. that evening, seven calls were placed between Gonzales's and Inthicack's cellular telephones. The Inn's video surveillance system showed Inthicack enter her room at 9:28 p.m., and

Gonzales enter Inthicack's room at 10:40 p.m. Gonzales was wearing a distinctive green Mickey's malt liquor T-shirt with a hornet design, and carrying a plaid shirt. He did not park his vehicle in the Inn's parking lot. Video showed no one entered or exited room 132 until 3:37 a.m. on September 9, 2013, when Gonzales emerged. He was carrying a black bag with a long strap that belonged to Inthicack.

On Monday, September 9, 2013, Alvarado became concerned when she was unable to reach Inthicack by telephone. At approximately 12:45 p.m., Alvarado and a hotel maid discovered Inthicack's body, sprawled on the floor of room 132. Hotel personnel called 911, and paramedics and law enforcement officers arrived shortly thereafter. Inthicack's body was face down on the floor, with her arms partially extended. Partially broken stereo equipment and wiring was on the floor near her head. The stereo components were bloodstained and there was blood on the carpet underneath her head. There was no other blood in the room. A bed sheet was wrapped around Inthicack's neck, "tied like you would tie the initial tie in a shoelace." A sheet partially covered her nude body. A wig was found under her right shoulder. Her body had obvious lividity, and rigor mortis had set in, indicating death had occurred over 12 hours earlier. Various items, including shoes, clothing, and a makeup bag, were lying about the room. Inthicack was characteristically neat and tidy and did not keep such items out of place. Some of the drawers in the room were messy, not as Inthicack usually maintained them.<sup>1</sup>

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<sup>1</sup> The People tried Gonzales for first degree murder on two theories: felony murder occurring during commission of a robbery, and premeditation and deliberation. According to

b. *The autopsy*

The medical examiner who conducted Inthicack's autopsy concluded that the cause of death was homicide due to asphyxia by strangulation. Inthicack had also suffered three premortem lacerations, or skin splits, to the back of her head, caused by blunt force trauma. These wounds were consistent with an object, such as the stereo, being brought down upon her head one to three times. Such a blow or blows could cause unconsciousness. Inthicack also had a laceration above her left eye, and abrasions and bruising on her face. These injuries were premortem, and were consistent with her free falling from a standing position to the ground.

The medical examiner explained that death by strangulation occurs when the blood vessels in the neck are compressed, cutting off blood flow to the brain. There are two major vessels in the neck: the carotid artery and the jugular vein. The carotid artery, located deeper in the neck, is more difficult to compress than the jugular vein. When the jugular, but not the carotid, is compressed, blood still flows into the brain but has no outflow path; pressure in the head increases, causing

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Alvarado, Inthicack had had approximately \$2,000 in cash in her room a day or two before the murder, and the only cash found in the room after the murder was \$15 in the pocket of a pair of Inthicack's shorts. However, there was conflicting evidence on the issue, and the jury acquitted Gonzales of robbery and found the allegation the murder was committed during commission of a robbery not true. In light of the jury's verdicts, and our conclusion *post* that the evidence was sufficient to prove premeditation and deliberation without consideration of a motive to rob, we do not detail the evidence related to the robbery charge here.

blood vessels in the eye to “pop,” or hemorrhage. Such hemorrhages are known as petechiae. If the carotid artery is fully compressed, unconsciousness will result in 10 to 20 seconds of constant pressure, and death will occur after “at least a minute.” If only the jugular vein is compressed, it would take “definitely more than one minute” for the victim to die with constant pressure. If the pressure is released, the victim can regain consciousness. Inthick had “severe” premortem petechiae in both eyes, indicating compression of the jugular, but not of the carotid artery. Inthick’s neck appeared paler than the surrounding tissue, likely because the blood had been squeezed out of her neck by the ligature.

Inthick had also suffered premortem anterior neck hemorrhages (bruising), indicating the pressure to her neck was applied from the back. The hemorrhages were consistent with her being strangled from behind, that is, the killer standing behind her and pulling the sheet in opposite directions or applying a chokehold. There were no ligature marks on Inthick’s neck, consistent with the use of a soft ligature such as the sheet. There were two superficial scratches on her neck, which were consistent with either the assailant placing the sheet around her neck, or Inthick attempting to pry away a chokehold or get her hand underneath the ligature.

Inthick had no defensive wounds.

*c. Gonzales’s arrest and further investigation*

Gonzales was 5 feet 11 inches tall and weighed between 160 and 170 pounds at the time of the murder. He was employed as an auto mechanic and lived with his parents, girlfriend, and infant daughter in West Covina. Gonzales was identified as a suspect as a result of phone records and the Inn’s video

recordings. He was arrested at the West Covina courthouse on September 11, 2013, when he appeared to address an unrelated warrant for a misdemeanor driving offense. When detectives questioned him, he initially lied and said he had not been at the Inn and had nothing to do with the murder. When booked, he had no injuries other than “a couple very, very minor scrapes,” a small cut on his hand, and a small mark above his right eyebrow.

Deputies searched Gonzales’s West Covina residence pursuant to a warrant. In Gonzales’s bedroom, they found the plaid shirt Gonzales had carried and the green Mickey’s malt liquor T-shirt he had worn into Inthick’s room. The green shirt had a blood stain on the right sleeve front, just below the shoulder. The major contributor to that blood stain was Inthick. Gonzales was a minor contributor to the DNA sample. Swabs from inside the green shirt’s collar matched Gonzales’s DNA.

The bloodstains on the stereo base unit and left and right speakers found around Inthick’s body contained her DNA. Gonzales was excluded as a major contributor.

Examination of Gonzales’s cellular telephone revealed that on September 9, 2013, at 2:16 a.m., while still in the room with Inthick’s body, he performed an Internet search for “huge butts.” After he had left her room, between 5:03 a.m. and 5:13 a.m. Gonzales opened eight bookmarked advertisements for escorts in the San Gabriel Valley, including advertisements or web pages captioned “All-American blonde”; “sexy, sweet, Irish, Spanish bombshell”; “Vicki Sweets – the best in town”; “Star service. You will love my skills. Mesmerizing blonde babe”; and “hot new pics, 5 white girls, 80’s type, slippery, . . . .” Some of the advertisements were for “she-males,” and some were for women.

At 5:15 a.m., Gonzales sent a text message to a contact named “Wizzard,” stating, “I’m home.” Wizzard replied, “Bout time ese thought u in jail.” Gonzales responded, “Not yet.” Between 5:17 and 5:23 a.m., Gonzales resumed searching for escorts, viewing five additional advertisements.

## *2. Gonzales’s defense*

Gonzales testified on his own behalf. He admitted killing Inthicack, but claimed he unintentionally killed her in self-defense.

Gonzales’s account of the killing was as follows. On September 8, 2013, he withdrew \$220 from his bank account in advance of his plan to visit a prostitute that evening. He had previously patronized prostitutes, including transgender prostitutes, on approximately six occasions. He called Inthicack and arranged to pay \$40 for oral sex. He told her that he wanted to drink a couple beers and relax first. During the call, Gonzales also confirmed that Inthicack had breasts and “real hair.” She told him not to park in the Inn’s parking lot because the police had been patrolling there. When he arrived at the Inn, Gonzales brought two beers into Inthicack’s room. She asked to see his money. He showed her the cash and told her he would pay after the sexual services were rendered. Gonzales drank his beer, ingested crystal methamphetamine, and watched pornography on the television. Inthicack complained that Gonzales had been there too long and insisted that they begin. When Inthicack undressed, Gonzales realized she did not have breasts, and became uninterested in her sexual services. Gonzales said, “ ‘What’s going on, dude? I thought you said you were a tranny.’ ”

According to Gonzales, Inthicack became upset and offered him other sexual services, but he told her he was leaving. She

grabbed his arm and demanded the money. Gonzales pushed her away. She grabbed a knife. Gonzales threw the money at her feet, but she demanded his wallet as well, because he had wasted her time. Gonzales was alarmed but refused to relinquish his wallet. He backed toward the door; Inthicack followed. Gonzales told her to stay put but Inthicack cursed and stepped towards him. Gonzales picked up a chair and hit her with it “as hard as possible.” Inthicack nonetheless kept hold of the knife. Gonzales pushed her to the wall, throwing his body against hers. They fell against a small table. Inthicack still refused Gonzales’s demand that she drop the knife, so he grabbed her arm and hit it against the floor repeatedly, causing her to drop it. Inthicack grabbed the stereo and the speakers from the desk, lifted it above her head, and hit Gonzales’s side with it. Gonzales grabbed Inthicack and they struggled. The room was dim, Gonzales did not know where the knife had fallen, and did not know where his keys were. He placed his arm around Inthicack’s neck in a bear hug. She stomped on his foot, elbowed his head, and threw her weight back at him, causing him to fall and land on the stereo. They continued to struggle. Gonzales got on Inthicack’s back and rolled her onto her stomach. He noticed there was a sheet “right there.” On instinct, he grabbed the sheet and looped it around Inthicack’s neck, thinking he would tie her up so she could not continue to fight. Suddenly Inthicack became still and Gonzales realized she was dead.

Gonzales “went into shock” and sat in the room for several hours, unsure what to do. He did not call police because he had narcotics in the room, he did not want his family and girlfriend to know he had been with a transsexual prostitute, and believed the police would think the knife was his. Eventually he placed the



knife and items he believed could show his presence in the room—Inthicack’s cellular telephone, a towel he had used to blow his nose, and his beer cans—in Inthicack’s computer bag, and left. He also took the \$40 he had thrown at Inthicack’s feet, because he did not feel he had to leave money for services he had not received. He denied taking any other money from the room or looking through Inthicack’s belongings. He threw the bag and its contents, except the knife, in a gas station trash can, and went home. He later threw the knife in a bush. The killing occurred within 40 minutes of his arrival at the Inn.

Gonzales attributed his interest in prostitutes and transgender persons to the fact he had been molested as a child by a family friend. His issues with alcohol and drugs began years before when his 19-year-old fiancée, Trisha, died unexpectedly in her sleep, when Gonzales was 20 years old.<sup>2</sup> As a result he turned to alcohol and drugs, and suffered a felony conviction “based on [his] drinking.” Also when he was 20, Gonzales had been stabbed by gang members, making him afraid of being stabbed again.

Two character witnesses testified that Gonzales was diligent, honest, trustworthy, hard working, and a good person.

### *3. People’s rebuttal*

April Sanchez, a former Grand Park Inn employee and a friend of Inthicack’s, had never heard of Inthicack stealing anything, being violent or aggressive, or using force against anyone. She was very shy and generally scared of people. Using

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<sup>2</sup> Gonzales explained that he and the fiancée had been living together, but were sleeping in separate rooms when she died. Police spoke to him in connection with her death, but he was not a named suspect.

a knife to attack someone and demand money was inconsistent with her personality.

## 2. *Procedure*

Trial was by jury. Gonzales was convicted of the first degree murder of Inthicack (Pen. Code, § 187, subd. (a))<sup>3</sup> and misdemeanor petty theft (§ 490.2), a lesser included offense of robbery. It acquitted him of robbery and found not true a special circumstance allegation that the murder occurred during commission of a robbery. Gonzales admitted serving a prior prison term within the meaning of section 667.5, subdivision (b). The trial court denied Gonzales’s motion to reduce the offense to second degree murder or voluntary manslaughter, and sentenced him to 26 years to life in prison. It imposed a restitution fine, a suspended parole revocation restitution fine, a court operations assessment, and a criminal conviction assessment, and ordered Gonzales to pay victim restitution. Gonzales appeals.

## DISCUSSION

Gonzales contends there was insufficient evidence to prove premeditation and deliberation, and therefore his conviction for first degree murder must be reduced to second degree murder. We disagree.

### 1. *Applicable legal principles and standard of review*

When determining whether the evidence was sufficient to sustain a criminal conviction, “ “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

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<sup>3</sup> All further undesignated statutory references are to the Penal Code.

trier of fact could find the defendant guilty beyond a reasonable doubt.” [Citation.]” (*People v. McCurdy* (2014) 59 Cal.4th 1063, 1104; *People v. Johnson* (2015) 60 Cal.4th 966, 988.) We presume in support of the judgment the existence of every fact the trier of fact could reasonably deduce from the evidence. (*People v. Medina* (2009) 46 Cal.4th 913, 919.) Reversal is not warranted unless it appears “that upon no hypothesis whatever is there sufficient substantial evidence to support [the conviction].” [Citation.]” (*People v. Bolin* (1998) 18 Cal.4th 297, 331; *People v. Zamudio* (2008) 43 Cal.4th 327, 357.) The same standard of review applies to cases in which the prosecution relies primarily on circumstantial evidence. (*People v. Brown* (2014) 59 Cal.4th 86, 106.) We must accept logical inferences the trier of fact might have drawn from the evidence even if we would have concluded otherwise. (*People v. Solomon* (2010) 49 Cal.4th 792, 811–812.)

Murder is an unlawful killing committed with malice aforethought. (§ 187, subd. (a); *People v. Elmore* (2014) 59 Cal.4th 121, 132.) Murder is of the first degree when it is committed in a willful, deliberate and premeditated fashion. (§ 189; *Elmore*, at p. 133; *People v. Beltran* (2013) 56 Cal.4th 935, 942.) Premeditation and deliberation require more than a showing of intent to kill. (*People v. Mendoza* (2011) 52 Cal.4th 1056, 1069; *People v. Halvorsen* (2007) 42 Cal.4th 379, 419.) An intentional killing is premeditated and deliberate if it is considered beforehand, and occurred as the result of preexisting thought and reflection, rather than as the product of an unconsidered or rash impulse. (*People v. Pearson* (2013) 56 Cal.4th 393, 443; *People v. Burney* (2009) 47 Cal.4th 203, 235.) “Deliberate” means formed, arrived at, or determined upon as a result of careful thought and weighing of considerations for and

against the proposed course of action. (*People v. Houston* (2012) 54 Cal.4th 1186, 1216.) “Premeditation” means thought over in advance. (*People v. Solomon, supra*, 49 Cal.4th at p. 812; *People v. Disa* (2016) 1 Cal.App.5th 654, 664.) However, to prove a killing was premeditated and deliberate, it is “ ‘not . . . necessary to prove the defendant maturely and meaningfully reflected upon the gravity of his or her act.’ [Citation.]” (*People v. Disa*, at p. 665.) The “ ‘ “process of premeditation and deliberation does not require any extended period of time.” ’ ” (*People v. Salazar* (2016) 63 Cal.4th 214, 245.) “ ‘ “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 . . . .’ [Citations.]” [Citation.]’ ” (*Houston*, at p. 1216.)

A reviewing court typically considers three categories of evidence when determining whether a finding of premeditation and deliberation is adequately supported: planning activity, motive, and manner of killing. (*People v. Houston, supra*, 54 Cal.4th at p. 1216; *People v. Anderson* (1968) 70 Cal.2d 15, 26–27; *People v. Gonzalez* (2012) 54 Cal.4th 643, 663–664.) However, these so-called *Anderson* factors are not exclusive, need not be present in any particular combination, are not all required, need not be accorded any particular weight, and are not invariably determinative. (*Gonzalez*, at p. 663; *Houston*, at p. 1216; *People v. Manriquez* (2005) 37 Cal.4th 547, 577; *People v. Disa, supra*, 1 Cal.App.5th at p. 665.) The *Anderson* factors are simply 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. (*Houston*, at p. 1216; *People v. Solomon, supra*,

49 Cal.4th at p. 812 [“ ‘*Anderson* did not purport to establish an exhaustive list that would exclude all other types and combinations of evidence that could support a finding of premeditation and deliberation’ ”].) “ ‘[U]nreflective reliance on *Anderson* for a definition of premeditation is inappropriate.’ ” (*People v. Gonzales and Soliz* (2011) 52 Cal.4th 254, 294.)

2. *The evidence was sufficient*

We discern no evidentiary deficiency in the instant case. Evidence of planning may be inferred from the nature of Gonzales’s attack on Inthicack. Viewed in the light most favorable to the judgment, the evidence showed a calculated, surprise attack rather than a rash or unconsidered impulse. Inthicack had lacerations on the back of her head caused by blunt force trauma, as well as bruises to her face. Stereo equipment, spotted with her blood, was on the floor near her head. Neck hemorrhages indicated pressure to neck had been applied from behind, and a bed sheet ligature was tied around her neck. From this evidence, a rational jury could infer that Gonzales struck Inthicack on the back of the head with the stereo equipment one to three times, causing her to fall to the floor face forward. The fact the wounds were to the back of the head showed Gonzales likely attacked Inthicack from behind, while her back was to him. This, coupled with the absence of defensive wounds to Inthicack and the lack of significant injuries to Gonzales, suggests Gonzales perpetrated a surprise attack. *Ipsa facto*, a surprise attack requires some level of planning.

Next, the jury could readily conclude that once Inthicack was face down on the floor, Gonzales wrapped the sheet around her neck and strangled her. Inthicack may have struggled, grabbing at the sheet and causing the scratches on her neck,

before losing consciousness. Or, an even likelier scenario suggested by the evidence was that Gonzales knocked Inthick out with the stereo, and then strangled her while she was unconscious. Such an attack on a much smaller victim, in which two different weapons were used, suggests premeditation and deliberation. (See *People v. Disa*, *supra*, 1 Cal.App.5th at p. 666 [evidence of planning inferable “from the fact defendant ‘deliberately continued to exert pressure on [the victim’s] neck even after she went limp.’ A rational jury could find that defendant ‘rapidly and coldly formed the idea to kill’ [the victim] after she stopped struggling and before he released her from the carotid restraint hold”]; *People v. Lewis* (2009) 46 Cal.4th 1255, 1293 [victim was strangled to the point of unconsciousness before her throat was cut; even if the initial strangulation was spontaneous, the additional act of slashing her throat indicated a reasoned decision to kill]; *People v. Perez* (1992) 2 Cal.4th 1117, 1127 [evidence defendant retrieved second knife from kitchen when first knife broke “bears similarity to reloading a gun or using another gun when the first one has run out of ammunition” and indicated premeditation and deliberation]; *People v. Hawkins* (1995) 10 Cal.4th 920, 956 [where there was little if any evidence of a struggle and victim was shot execution style in back of head, trier of fact could find premeditation and deliberation even though evidence of planning and motive was minimal or absent], disapproved on another ground in *People v. Lasko* (2000) 23 Cal.4th 101, 110.)

The manner of killing, by itself, strongly indicated premeditation and deliberation. The medical examiner testified the cause of death was asphyxiation by strangulation, likely by the bed sheet. It has long been recognized that when a murder is

committed by means of ligature strangulation, a jury can readily infer that the defendant had time to consider his actions. (*People v. Solomon*, *supra*, 49 Cal.4th at p. 815; *People v. Bonillas* (1989) 48 Cal.3d 757, 792 [“Ligature strangulation is in its nature a deliberate act”]; *People v. Hovarter* (2008) 44 Cal.4th 983, 1020 [victim was strangled with rope for five to eight minutes; “This prolonged manner of taking a person’s life, which requires an offender to apply constant force to the neck of the victim, affords ample time for the offender to consider the nature of his deadly act”]; *People v. Disa*, *supra*, 1 Cal.App.5th at p. 666 [carotid restraint hold is a “manner of killing [that] may be viewed as demonstrating ‘a calculated design to ensure death rather than an unconsidered explosion of violence’”].)

Moreover, to accomplish the killing in this case, Gonzales first had to retrieve the sheet from the bed. Next, he had to wrap it around the victim’s neck. Then, he had to tie it. Common sense suggests a bed sheet is not as immediately suited for use as a ligature as, for example, a belt or an electrical cord. The evidence showed the sheet in this case was a typical large bed sheet, comprised of yards of fabric. To use it as a ligature, therefore, Gonzales had to manipulate the sheet to fit it around the victim’s neck and then tie the sheet’s long ends. These actions could not have been accomplished on a momentary impulse, but required cold calculation. Gonzales had to apply constant pressure, pulling both ends of the sheet, to cause death. Petechiae in Inthicack’s eyes indicated her jugular vein, but not her carotid artery, was compressed. It therefore would have taken longer than one minute of constant pressure to cause Inthicack’s death.

Finally, Gonzales's conduct after the murder was "inconsistent with a state of mind that would have produced a rash, impulsive killing." (*People v. Disa*, *supra*, 1 Cal.App.5th at p. 667 [defendant's calm behavior after the killing – smoking, sleeping, eating, and going to work – supported finding of premeditation and deliberation]; *People v. Perez*, *supra*, 2 Cal.4th at p. 1128 [after stabbing the victim, defendant did not immediately flee but searched drawers and jewelry boxes and changed a bandage, conduct inconsistent with a state of mind that would have produced a rash, impulsive killing].) Here, Gonzales did not flee the scene for between three and four hours after killing the victim. Instead, he remained in the room with the victim's body. Whether or not the jury believed Gonzales took any money, it could readily infer that during those hours Gonzales went through Inthicack's things: clothing, shoes, makeup, a wig, and other items were out of place, and her drawers were in disarray. Shortly after 2:00 a.m. – and while still in the room with Inthicack's body – Gonzales was searching for "huge butts" on his phone. By 5:15 a.m., after leaving Inthicack's body, he was occupied with viewing numerous escort websites or advertisements. Thus, after having just killed a prostitute, within a few hours Gonzales was already scanning advertisements for more prostitutes. When Gonzales calmly left the room, he had the presence of mind to remove items that he believed might identify him, and remembered to take his \$40 back as well. The jury could find the foregoing conduct was incompatible with a state of mind that would have produced a rash, impulsive killing.

Gonzales's arguments to the contrary are unavailing. He urges that the evidence here showed neither planning nor motive,



and the manner of killing, by itself, was insufficient to demonstrate premeditation and deliberation. He argues that there was no evidence of a preconceived plan to kill, because he had no preexisting relationship with Inthicack, his visit to her room was the result of a spur-of-the moment decision, and he did not bring a weapon to the assignation. But, assuming he did not plan to kill Inthicack before his arrival at her room, this does not demonstrate the evidence was insufficient. “The lack of evidence of extensive planning does not negate a finding of premeditation.” (*People v. Brady* (2010) 50 Cal.4th 547, 563 [defendant killed officer during the course of a traffic stop lasting only a few minutes; jury could find defendant rapidly and coldly formed the idea to kill and acted after reflection rather than on an unconsidered or rash impulse].) As noted, premeditation and deliberation can occur in a brief interval; the test is not time, but reflection. (*People v. Solomon, supra*, 49 Cal.4th at p. 812; *People v. Brady*, at p. 563.) As we have explained, the nature of Gonzales’s attack demonstrated some level of planning: he first hit the victim on the head to incapacitate her and then strangled her, using a sheet carefully tied around her neck. Based on the nature of the attack, a rational trier of fact could conclude Gonzales rapidly and coldly formed the plan to kill Inthicack at some point during their encounter, and therefore acted after a period of reflection rather on an unconsidered or rash impulse.

Gonzales next argues that there was no evidence of motive. He insists he could not have harbored animosity toward Inthicack, as he did not know her prior to their encounter, and there was no evidence he harbored animosity toward transgender individuals, given that he knowingly sought out transgender prostitutes. He avers that the record contains “no clue” as to the

reason for the killing, other than the purported argument over payment. But California law “has ‘ “never required the prosecution to prove a specific motive before affirming a judgment, even one of first degree murder. A senseless, random, but premeditated, killing supports a verdict of first degree murder.” [Citation.]’ [Citation.]” (*People v. Halvorsen, supra*, 42 Cal.4th at pp. 421–422; see *People v. Hawkins, supra*, 10 Cal.4th at pp. 956–957.)<sup>4</sup>

Gonzales acknowledges that the manner of killing may itself be sufficient to establish premeditation and deliberation, but argues that principle has no application because the manner of killing here was not an execution-style killing. Our conclusion that the evidence is sufficient is not based only on the fact Gonzales strangled the victim with a ligature. Instead our conclusion rests on the totality of the evidence, including the nature of the attack and Gonzales’s actions after the murder.

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<sup>4</sup> The People argue that the evidence established a motive: the day of the murder Gonzales texted a friend saying that he was “broke” and his mother was in the hospital; Alvarado testified that Inthicack had a substantial amount of cash in her room; and only \$15 was found in the room after the murder. Therefore, the People contend, the evidence showed the motive for the crime was robbery. Gonzales argues that we may not consider such evidence because the jury acquitted him of robbery and found the allegation the murder was committed during the commission of a robbery not true. Instead, the jury found him guilty of petty theft, presumably based on his admittedly taking the victim’s cellular telephone and bag. In light of our conclusion that the evidence was sufficient even absent a showing of motive, we need not determine to what extent, if at all, the robbery evidence might be considered in regard to Gonzales’s insufficiency claim.

*People v. Anderson*, *supra*, 70 Cal.2d 15, and *People v. Boatman* (2013) 221 Cal.App.4th 1253, cited by Gonzales, are distinguishable. In *Anderson*, the victim was stabbed over 60 times; our Supreme Court held that the brutality of a killing cannot in itself support a finding of premeditation and deliberation. (*Anderson*, at pp. 24–25.) The evidence here shows premeditation and deliberation for the reasons we have described *ante*, not because of its brutality.

In *Boatman*, the defendant killed his girlfriend by shooting her in the face. He contended the shooting was an accident. The appellate court concluded the evidence of premeditation and deliberation was insufficient. (*People v. Boatman*, *supra*, 221 Cal.App.4th at p. 1257.) There was no planning activity whatsoever; defendant’s behavior following the shooting was that of “someone horrified and distraught about what he had done, not someone who had just fulfilled a preconceived plan”; there was little or no motive evidence; and the manner of killing showed only an intent to kill. (*Id.* at pp. 1267-1268.) Here, in contrast, the jury could have inferred Gonzales made a surprise attack on the victim from behind, in a calculated plan to knock her out and then kill her by means of ligature strangulation; moreover, Gonzales’s post-killing conduct was dissimilar to the *Boatman* defendant’s.

DISPOSITION

The judgment is affirmed.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

EDMON, P. J.

We concur:

LAVIN, J.

DHANIDINA, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.