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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.

RAZZAQ ABDUR KAISER,

Defendant and Appellant.

2d Crim. No. B281553  
(Super. Ct. No. BA405037-01)  
(Los Angeles County)

Razzaq Abdur Kaiser appeals the trial court's restitution order directing that seized assets be converted for restitution purposes. (Pen. Code, § 186.11.)<sup>1</sup> We affirm.

*FACTUAL AND PROCEDURAL HISTORY*

On July 2, 2014, the Los Angeles County prosecutor filed an amended information charging Kaiser and his wife, Farah Sabuhi Kaiser, with 72 counts of welfare fraud, perjury by declaration, conspiracy to commit grand theft, use of false

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<sup>1</sup> All further statutory references are to the Penal Code unless stated otherwise.

financial statements, identity theft, and money laundering.<sup>2</sup> (Welf. & Inst. Code, § 10980, subd. (c)(2); §§ 118, subd. (a), 182, subd. (a)(1), 532a, subd. (2), 530.5, subd. (a), 186.10, subd. (a).) The amended information also alleged that Kaiser's criminal offenses were subject to the aggravated white collar crime enhancement, were committed with the intent to take property of a value exceeding \$200,000, and were charged within the statute of limitations for fraud-related crimes. (§§ 186.11, subd. (a), 12022.6, subd. (a)(2), 803, subd. (c).)

The charged criminal offenses included credit card and welfare fraud that involved, among other things, the theft of social security numbers. The probation report described the crimes as "well-planned and sophisticated" occurring over a period of 13 years and involving many victims.

On November 5, 2014, Kaiser pleaded nolo contendere to one count of welfare fraud (count 1) and one count of identity theft (count 34), and admitted the special allegations. Count 1 concerned use of fraud to obtain \$53,134 in benefits from the Department of Public Social Services, and count 34 concerned the fraudulent use of M.G.'s identity to obtain credit, goods, services, and property. Pursuant to a plea agreement, the parties agreed that Kaiser would be placed on formal probation for 10 years, with terms and conditions, and pay a total of \$404,857.33 in victim restitution to seven victims. The prosecutor agreed to dismiss the remaining 70 counts.

The trial court sentenced Kaiser on September 15, 2016, in accordance with the plea agreement. The court imposed 364 days of confinement because Kaiser had not yet paid an adequate

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<sup>2</sup> Codefendant Farah Sabuhi Kaiser is not a party to this appeal.

amount of restitution. Kaiser later paid partial restitution and the court modified the terms of his confinement to 32 days with credit for 32 days served.

During sentencing, the trial judge expressed frustration regarding Kaiser's lenient sentence, which she found "offensive": "I don't understand it. I just sent somebody to prison for . . . four years for stealing that amount of money." The judge acknowledged that she approved the plea agreement, but "the agreement was \$50,000 [restitution] by today or custody." (Kaiser appeared with a \$40,000 cashier's check made payable to the wrong entity, and a \$15,000 postdated personal check.) The judge noted that Kaiser had "breached" the plea agreement by appearing in court with an insufficient restitution payment. The judge also remarked that the purpose of the two-year delay in preparing for trial "was to work with the [prosecutor] and pay the restitution."

On January 25, 2017, the trial court held a restitution hearing concerning 143,500 Pakistani rupees, gold jewelry, and a Rolex watch that had been seized by law enforcement officers from the Kaisers' Bellflower residence during execution of a search warrant. The Kaisers filed claims opposing the forfeiture of the rupees, jewelry, and watch, declaring under penalty of perjury that the property was owned by Mrs. Kaiser's mother, a citizen and resident of Pakistan. Mrs. Kaiser's mother, Idriss Khanam, also filed a verified claim opposing forfeiture, asserting that she owned the property.

At the hearing, Kaiser testified that his mother-in-law owned the contested property, although he did not recall when she last visited the United States. He also stated that he was holding the Rolex watch for his brother-in-law's eventual visit

and that his mother-in-law wore the gold jewelry during her visits. In the interim, Mrs. Kaiser sometimes wore the jewelry.

Following Kaiser's testimony, the trial court stated that he did not meet his burden of establishing his mother-in-law's ownership of the contested property. (*People v. Semaan* (2007) 42 Cal.4th 79, 89 [claimant must prove his claimed interest in frozen assets by a preponderance of the evidence].) The court then ordered the property confiscated and used for restitution.<sup>3</sup>

Kaiser appeals and challenges the trial court's order. Pending the outcome of this appeal, the court stayed its order converting the contested property to restitution.

### *DISCUSSION*

Kaiser argues that the trial court erred in converting the rupees, jewelry, and watch to restitution because the preliminary injunction enjoining his assets and property did not specifically list these assets. (§ 186.11, subds. (d)(1), (2), (e)(1), (h)(1)(A); *People v. Green* (2004) 125 Cal.App.4th 360, 370 ["no preliminary injunction, no levy"].)

On May 21, 2013, the trial court issued a preliminary injunction prohibiting the Kaisers from actions affecting six specifically identified bank accounts as well as their Bellflower residence. Page two of the injunction generally enjoined the Kaisers from "[w]ithdrawing, transferring, disbursing, encumbering or otherwise dissipating any asset or property that is in the control of the defendant or any asset or property that has been transferred by the defendant to a third person,

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<sup>3</sup> The Kaisers and Mrs. Khanam also contested the forfeiture of \$19,992 United States currency that was seized. At the sentencing hearing, the prosecutor stated that the defendants had abandoned their claims to this currency.

subsequent to the commission of any criminal acts alleged in accusatory pleading BA405037, other than in a bona fide purchase concluded before the issuance of this order, whether found within or outside the State of California. The one exception is the single Union Bank account . . . listed in paragraph 2(a) above.”

The parties stipulated that law enforcement officers found the contested property in the Kaisers’ residence on March 7, 2012. In November 2015, the Kaisers and Mrs. Khanam filed claims opposing forfeiture of the rupees, gold jewelry, and Rolex watch. Those assets were the subject of the later restitution hearing at which Kaiser testified as to his mother-in-law’s ownership of the assets. The preliminary injunction provided sufficient notice that the assets were enjoined and subject to forfeiture. There is substantial compliance with the statute. Moreover, by not objecting at the restitution hearing, Kaiser has forfeited this issue. (*People v. Houston* (2012) 54 Cal.4th 1186, 1213 [general rule of forfeiture].)

The order is affirmed.

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GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Katherine Mader, Judge  
Superior Court County of Los Angeles

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Lori A. Quick, under appointment by the Court of  
Appeal, for Defendant and Appellant.

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