

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

ALEXANDER R. JACOME,

Defendant and Appellant.

2d Crim. No. B288893
(Super. Ct. No. 17PT-00970)
(San Luis Obispo County)

On April 12, 2017, Alexander R. Jacome was convicted of battery with the infliction of injury upon a public transit employee. (Pen. Code, § 243.3.)¹ Pursuant to a plea agreement, Jacome received a two-year prison term. He now appeals an order determining him to be a mentally disordered offender (MDO) and committing him to the State Department of State Hospitals for treatment for one year. (§ 2962 et seq.) We appointed appellate counsel to represent Jacome in this appeal.

¹ All statutory references are to the Penal Code unless stated otherwise.

Appointed counsel has filed a brief summarizing the facts and proceedings in the trial court. After examining the record, counsel advised us in an opening brief that he could not find any arguable issues.

Appointed counsel sent Jacome a copy of the opening brief and the record on appeal. On June 15, 2018, we notified Jacome that he had 30 days within which to submit a brief raising any contentions that he wished the court to consider. (*People v. Taylor* (2008) 160 Cal.App.4th 304.) On June 21, 2018, and June 29, 2018, we received a brief and a supplemental brief from him.

Jacome contends that he does not have a severe mental disorder that was the cause of, or an aggravating factor in, the commission of the underlying criminal offense. (§ 2962, subds. (a) & (b).) He also asserts that he did not receive the effective assistance of counsel in litigating these factors. We conclude that the expert testimony of forensic psychologist Kevin Perry constitutes substantial evidence supporting the trial court's findings that Jacome satisfied the MDO criteria of section 2962. (*People v. Labelle* (2010) 190 Cal.App.4th 149, 151.)

Doctor Perry reviewed Jacome's treatment records, the reports of other MDO evaluators, and also interviewed Jacome. Perry opined that Jacome suffers from schizophrenia, as manifested by his persecutory and grandiose delusions, disorganized thinking, agitation, and paranoia. Moreover, in 2015, Jacome was involuntarily hospitalized pursuant to Welfare and Institutions Code section 5150.

Perry also opined that Jacome's severe mental disorder caused, or was an aggravating factor in, the commission of the assault on the bus driver who was driving a bus on which Jacome was a passenger. Jacome informed Perry that the bus driver

“was messing with him” by failing to stop at Jacome’s stop. Perry characterized the assault as an unprovoked and irrational reaction that endangered Jacome as well as the bus driver. Five weeks following the assault, a doubt was declared regarding Jacome’s competence to stand trial.

Forensic psychologist Harry Goldberg also testified and opined that Jacome suffers from schizophrenia or schizoaffective disorder. Goldberg concluded, however, that Jacome’s severe mental disorder was not an aggravating factor in the underlying offense. Goldberg opined that Jacome committed the offense due to his sociopathy.

Following the receipt of evidence and argument by the parties, the trial court found that Jacome met the six MDO criteria of section 2962. The trial judge stated that he found the testimony of Doctor Perry convincing. The judge also noted that police reports concerning the underlying offense stated that the bus driver thought that Jacome “was acting crazy.”

Jacome has not met his burden of establishing on appeal that his attorney’s representation did not fall within the broad range of reasonableness. (*People v. Mickel* (2016) 2 Cal.5th 181, 198.) We afford “great deference to counsel’s tactical decisions.” (*Ibid.*)

The judgment is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P.J.

We concur:

YEGAN, J.

TANGEMAN, J.

Craig B. Van Rooyen, Judge

Superior Court County of San Luis Obispo

Gerald J. Miller, under appointment by the Court of
Appeal; Alexander R. Jacome, in pro. per., for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.