Filed 2/23/18 P. v. Coronado CA2/8

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE, Plaintiff and Respondent, v. CAROL ANN CORONADO, Defendant and Appellant.	B269983 (Los Angeles County Super. Ct. No. BA425234)

APPEAL from a judgment of the Superior Court of Los Angeles County. Ricardo R. Ocampo, Judge. Affirmed.

Thomas T. Ono, 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, Steven D. Matthews, Michael Lehmann and Esther P. Kim, Deputy Attorneys General, for Plaintiff and Respondent.

Carol Coronado was charged with three counts of willful, deliberate and premeditated murder in connection with the deaths of her two year old, one year old, and infant daughters. Coronado entered pleas of not guilty and not guilty by reason of insanity. After a court trial, the court found Coronado guilty of first degree murder and legally sane during the commission of the crimes. She was sentenced to three terms of life without parole.

On appeal, Coronado makes the following arguments: (1) she was improperly arraigned when she purported to enter a plea of not guilty by reason of insanity; (2) there was insufficient evidence of premeditation and deliberation; (3) the evidence was insufficient that she was sane at the time she committed the crimes; and (4) she received ineffective assistance of counsel.[1]

We find there was sufficient evidence of first degree murder and of Coronado's sanity, the improper manner of her plea did not prejudice her, and there was no ineffective assistance of counsel. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On May 20, 2014, Coronado killed her three daughters. On September 22, 2014, Coronado was indicted by the grand jury on three charges of first degree murder (Pen. Code, § 187, subd. (a)) with the special allegation she had used a knife to commit the offenses (Pen. Code, § 12022, subd. (b)(1)).[2] Coronado pled not guilty and not guilty by reason of insanity to each count.

---

[1] The parties submitted supplemental briefing on whether counsel rendered ineffective assistance.

[2] She was also indicted on a charge of attempted murder of her mother, and was later acquitted of that charge.

She waived her right to a jury trial. The trial was bifurcated with the question of guilt tried first and sanity second. (See *People v. Elmore* (2014) 59 Cal.4th 121, 140–141 (*Elmore*); Pen. Code, § 1026, subd. (a).)

1. *The Guilt Phase*

a. *The People's Case*

Coronado and her husband, Rudy, had been married for five years, and had three daughters together.[3] At the time of the crimes: X.C. was three months old, Y.C., 18 months old, and S.C., two and a half years old. At times during their relationship, Rudy got angry with Coronado and yelled at her for not cleaning the house sufficiently. Over a year before the crimes, Coronado became "fed up" with Rudy and moved into her sister's home with Y.C. and S.C. for a few days (X.C. was not yet born). About 10 days before the crimes, Coronado told her mother, Julie Piercey (Piercey), that Rudy had asked for a divorce.

On the morning of May 20, 2014, Coronado called her mother and said that Rudy had taken their savings and the car keys. Coronado said she was afraid of Rudy. Coronado continued to call Piercey throughout the day, and left several distressed phone messages. Piercey came to Coronado's home sometime after 4:00 p.m.

When Piercey entered the house, Coronado walked out of the bedroom naked and was "flailing her hands." Coronado said, "Mom, what are you doing here?" Piercey gave her a hug and asked, "How was your day?" Coronado shrugged her shoulders and said, "It was a bad day." Piercey then looked into the bedroom and saw the children's bodies lying on the bed. Piercey

---

[3] We refer to Rudy Coronado by his first name to avoid confusion with appellant. We intend no disrespect.

said, "What's the matter with the girls?" Coronado then held up a knife. Piercey grabbed her hand and took the knife.

Piercey exited the house and yelled at Rudy, who was across the street, "she killed the girls." They both ran into the house. The bedroom door was locked. Rudy and Piercey kicked the door open and found Coronado standing naked in the bedroom. Coronado ran around the bed and hopped up on it, crouching over the children's bodies. She waved her hands over the bodies "in a protective manner," and shook a knife at Rudy and Piercey while saying, "Come on. Come on." Coronado then sat down on the bed and stabbed herself in the chest.

Piercey went outside and called the police. When officers entered the house, Coronado was lying on the bed next to the children's heads. She was naked and "covered in blood." She was looking at the ceiling with a "blank stare" and showed "no emotion on her face." She had put her fingers inside the stab wound on her left chest and was "using her fingers to open up" the wound. When the officers told her to step away from the bed, she looked at them but did not respond.

Three kitchen knives and a pair of scissors were lined up next to each other on a kitchen counter; two of the knives were bloody. A bloody knife was lying on the floor between two cribs in the bedroom. Near the girls was a bloody hammer. A bloody knife was under the bedding.

The oldest child, S.C., suffered two sharp force injuries to the front of her neck and one to her left chest, as well as abrasions to the upper left side of her neck and chest. The middle child, Y.C., suffered four sharp force injuries to her neck and one to her left chest, defensive wounds on her hands, two blunt force injuries upon her scalp, and bruises on her legs.

The infant, X.C., suffered three sharp force injuries to her neck and one to her chest.

A bloody cross was drawn on each child's chest.

b. *The Defense*

Rudy testified that he and Coronado had a good relationship but would sometimes fight. At times, when he was angry, he threatened divorce. Coronado was an attentive and overprotective mother, and did all the childcare.

The week before the crimes, Coronado started acting "weird"—she shut off the power to the house, abruptly jumped on Rudy's chest while he was lying on the couch, and "rambl[ed] a lot." She had difficulty sleeping. On the morning of the murder, Coronado woke up screaming. Rudy immediately called Piercey, and told her that Coronado was acting abnormal. He then went outside, leaving Coronado with the children.

Later that day, he entered the home and saw Coronado lying on the bed looking dirty. Although Coronado always kept the children clean, the oldest daughter was running around with feces on her. Rudy got upset at Coronado, berated her, and told her to get up. She said, "I'm tired." Rudy then went back outside. He was still outside when he heard Piercey screaming that Coronado had killed the children.

Rudy ran inside and pushed the bedroom door open. He saw his daughters lying on the bed with Coronado behind them holding a knife. Coronado looked at Rudy, said she loved him, and then stabbed herself.

c. *Doubt as to Competency*

After the defense presented its case at the guilt phase, defense counsel declared a doubt as to Coronado's competency. Coronado rambled throughout the hearing, asking for her family

and her children. She was eventually removed screaming from the courtroom. The court appointed Dr. Risa Grand, a psychiatrist, to evaluate her.

Dr. Grand diagnosed Coronado with "major depression with peri-partum onset and personality traits highly suggestive of Borderline Personality Disorder." Dr. Grand noted that Coronado had been prescribed Seroquel, an antipsychotic medication. After Coronado's outburst in the courtroom, her Seroquel prescription was increased, and she received an intramuscular injection of another antipsychotic, Haldol. By the time Dr. Grand interviewed her, Coronado was calm and cooperative. Dr. Grand noted that individuals with borderline personality disorder "may experience brief para-psychotic episodes" and "this may account for [Coronado's] behavior." Furthermore, Coronado had refused her nighttime dose of antipsychotic and sedative medications the evening before her outburst, which may have contributed to her behavior the following day. Dr. Grand concluded that Coronado was competent to stand trial. The trial court found she was competent, and the trial continued.

2. *The Sanity Phase*

During the insanity phase, defense counsel generally argued that Coronado was suffering from postpartum psychosis when she killed her children. The prosecution argued there was no evidence of psychosis.

a. *The Defense*

Dr. Anil Sharma, a psychiatrist, testified that she evaluated Coronado on May 23, 2014—three days after the crimes—when Coronado was under hospital treatment for her stab wound. Coronado was "very confused" and was "responding

to some internal stimuli." Dr. Sharma diagnosed her with "major depression, severe, recurrent, with psychotic features." Dr. Sharma prescribed an antipsychotic medication.

Dr. Michael Choi, a psychiatrist evaluated Coronado the following day. She was "very confused" and "her thought process was very impaired." He diagnosed her with a "psychotic disorder not otherwise specified" which he explained is an "umbrella diagnosis that . . . encompasses any sort of psychiatric disorder . . . where the person is not in touch with reality." He increased the dosage of her antipsychotic medication.

Dr. Torang Sepah, a psychiatrist, treated Coronado for approximately a year while Coronado was detained in jail. She diagnosed Coronado with a "mood disorder not otherwise specified" while "working on identifying it as [a] major depressive disorder with psychotic features with peripartum onset." According to Dr. Sepah, "a person who is psychotic has impaired reality testing. So their subjective experience is often easily confused with their understanding or experience with the external world. . . . They may have delusions, which include paranoid delusions. They may also have hallucinations."

Coronado's psychosis had responded to treatment with an antipsychotic. Dr. Sepah opined that Coronado's attempted suicide after killing her children was "significant because in published literature, it supports a diagnosis of psychosis." She continued Coronado's prescription for antipsychotic medication.

Dr. Diana Barnes, a psychologist and therapist with expertise in postpartum psychosis, interviewed Coronado three times. Coronado told her that she had been molested multiple times as a child and had started hearing voices from the time she was five years old. On the day of the murders, Coronado

experienced visual and auditory hallucinations suggesting she should kill her children. She had no memory of killing her children, only of stabbing herself.

Dr. Barnes diagnosed Coronado with major depressive disorder with psychotic and catatonic features and peripartum onset. Dr. Barnes opined that Coronado was psychotic at the time of the crimes and had killed her children as an act of altruistic filicide. Coronado did not understand the nature and quality of her actions or that they were wrong.

b. *Prosecution*

The prosecution initially contacted Dr. Erin Murphy Barzilay as a potential expert, and allowed her to review the police reports, medical records, interview transcripts, and descriptions of interviews by certain doctors. Dr. Barzilay was not called to the stand, and the parties stipulated that she would have testified that Coronado was insane at the time of the crimes.

Dr. David Speiser, an obstetrician and gynecologist, testified that he saw Coronado approximately eight to ten times in connection with her second and third pregnancies. He described her as "an extremely happy individual."

Dr. Bijan Ghatan, a primary care physician, saw Coronado for an appointment a week before the killings. She appeared to be her "usual jovial self."

Sergeant Robert Martindale testified that he interviewed Coronado in the hours after she was arrested. He asked her if she had killed her children to "get back at her husband" and she said, "If that's true, do I get a better deal?" Sergeant Martindale told her that her husband said "she killed the kids because he wanted a divorce," and she responded, "He's right." When

Martindale asked Coronado, "What do you need from us in order to tell us what happened?" she replied, "Bedpan."

Dr. Gordon Plotkin, a psychiatrist, interviewed Coronado three times beginning eight months after the crimes. He opined that she did not have a "major mental disorder" but rather "there are times she may have been mildly depressed." Dr. Plotkin concluded that Coronado understood the nature and quality of her acts at the time of the crimes—she understood what a knife was, who her children were, and that stabbing her children would kill them. She further understood the wrongfulness of the killings—she confronted her husband and mother after the crime, and asked the police for a deal if she admitted to the killings.

c. *The Court's Ruling*

The trial court found that Coronado was sane when she committed the crimes. The court sentenced her to three life terms of imprisonment without the possibility of parole plus three years. She timely appealed.

DISCUSSION

I. Substantial Evidence Supports the Court's Findings of Premeditation and Deliberation

Coronado contends there is insufficient evidence of premeditation and deliberation because there was no evidence the killings were planned ahead of time, no apparent motive besides the speculative theory she was angry with her husband, and the manner of killing was more consistent with a rash and unconsidered impulse than a deliberate plan. We find legally sufficient evidence.

In deciding a challenge to the sufficiency of the evidence we " 'review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial

evidence—that is, evidence that is reasonable, credible, and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citations.]' " (*People v. Solomon* (2010) 49 Cal.4th 792, 811 (*Solomon*).)

" 'A verdict of deliberate and premeditated first degree murder requires more than a showing of intent to kill. [Citation.] "Deliberation" refers to careful weighing of considerations in forming a course of action; "premeditation" means thought over in advance. [Citations.]' [Citation.] ' "Premeditation and deliberation can occur in a brief interval. 'The test is not time, but reflection. "Thoughts may follow each other with great rapidity and cold, calculated judgment may be arrived at quickly." ' " [Citation.]' [Citations.]" (*Solomon*, *supra*, 49 Cal.4th at p. 818.)

People v. Anderson (1968) 70 Cal.2d 15, 26-27, identifies three categories of evidence commonly present in cases of premeditated murder: planning activity, motive, and manner of killing. " 'The *Anderson* factors, while helpful for purposes of review, are not a sine qua non to finding first degree premeditated murder, nor are they exclusive.' " (*People v. Koontz* (2002) 27 Cal.4th 1041, 1081.)

Here, the three children died from stab wounds to their jugular veins. Two of the children also suffered fatal wounds to their chests. This evidence suggested the wounds were not "wild and unaimed" but targeted to kill. (*People v. Paton* (1967) 255 Cal.App.2d 347, 352.) There was also evidence that Coronado planned the attacks by laying out weapons on a kitchen counter, and carefully placing her children on the bed. Evidence that she used several different weapons during the attacks suggests she had time to reflect as she retrieved each weapon.

(*People v. Combs* (2004) 34 Cal.4th 821, 851.) On this record, the court could reasonably find premeditation and deliberation.

II. Substantial Evidence Supports the Court's Sanity Finding

Coronado contends the trial court's finding she was sane at the time of the crimes must be reversed because the evidence of insanity was of such weight that a finder of fact could not reasonably reject it. We disagree.

"Under California's statutory scheme, '[p]ersons who are mentally incapacitated' are deemed unable to commit a crime as a matter of law. [Citation.] Mental incapacity . . . is determined by the *M'Naghten* test for legal insanity provided in [Penal Code] section 25, subdivision (b). [Citation.] Under *M'Naghten,* insanity is established if the defendant was unable either to understand the nature and quality of the criminal act, or to distinguish right from wrong when the act was committed." (*Elmore, supra,* 59 Cal.4th at p. 140, fn. omitted.)

"[T]he defendant bears the burden of proving, by a preponderance of the evidence, that he was legally insane when he committed the crime. [Citations.]" (*People v. Mills* (2012) 55 Cal.4th 663, 672 (*Mills*).) We review the fact finder's determination for substantial evidence. (*People v. Chavez* (2008) 160 Cal.App.4th 882, 891.) "Because the burden was on the defense to show by a preponderance of the evidence that appellant was insane, before we can overturn the trier of fact's finding to the contrary, we must find as a matter of law that the court could not reasonably reject the evidence of insanity. [Citations.]" (*People v. Skinner* (1986) 185 Cal.App.3d 1050, 1059.) Stated differently, the question for this court is whether "there is any reasonable hypothesis upon which the [fact finder]

could have found [appellant] legally sane during the commission of the crime." (*People v. Belcher* (1969) 269 Cal.App.2d 215, 220.)

Coronado first points out that most of the experts diagnosed her with a major mental illness: four of the defense experts testified that she suffered from a form of psychosis. Only the prosecution expert, Dr. Plotkin, opined that Coronado did not suffer from a "major mental disease." However, a defendant's mental illness is not synonymous with the legal definition of insanity. Rather, "a defendant may suffer from a diagnosable mental illness without being legally insane." (*Mills*, *supra*, 55 Cal.4th at p. 672.) Insanity is determined by whether a defendant was able to understand the nature of her actions or distinguish right from wrong at the time of the crime. (*Elmore*, *supra*, 59 Cal.4th at p. 140.)

Coronado next criticizes portions of Dr. Plotkin's testimony. Coronado argues: Dr. Plotkin did not interview Coronado until eight months after the crimes; Dr. Plotkin opined she understood the nature of her crimes because she had used four knives, but advanced planning does not preclude a finding a defendant is insane; and Dr. Plotkin's dismissal of the other experts' techniques was not supported by any explanation.

Coronado's critique of Dr. Plotkin's testimony simply shows there were grounds for the trier of fact to reject his testimony; it does not show that no reasonable trier of fact could have accepted his conclusions. Dr. Plotkin opined that Coronado understood the nature and quality of her actions—she understood a knife was a knife at the time and knew she was stabbing her children. He further opined she understood the wrongfulness of her actions—she confronted her husband and mother after she killed the

children, and asked the police for a deal. These opinions were rational and supported by evidence before the court.

The trier of fact was entitled to weigh the expert testimony "including the circumstances before, during, and after the offenses." (*People v. Green* (1984) 163 Cal.App.3d 239, 244.) Here, in concluding that Coronado was sane at the time of the crimes, the trial court rejected the testimony of the defense experts and credited that of Dr. Plotkin. We find as a matter of law that the trial court could reasonably reject the evidence of insanity.

III. Coronado's Improper Plea Did Not Prejudice Her

Coronado argues that she did not properly enter a plea of not guilty by reason of insanity because she did not personally enter her plea. Respondent does not dispute that the law required Coronado to personally enter her plea, or that the record shows that her counsel entered her plea on her behalf. However, respondent argues Coronado has not shown prejudice: she does not assert she wished to enter a different plea.

Under Penal Code section 1018, "every plea shall be entered or withdrawn by the defendant himself or herself in open court" unless otherwise provided by law. The parties agree the error complained of is a violation of a state statute, not a federal constitutional error, and is therefore subject to a harmless error test. (See *People v. Henning* (2009) 178 Cal.App.4th 388, 402 [court did not permit defendant to plead not guilty by reason of insanity over counsel's objections; no error, because no credible evidence supported insanity defense].)

Coronado cites to *People v. Clemons* (2008) 160 Cal.App.4th 1243 (*Clemons*) in support of her claim that she was prejudiced by the error here. In *Clemons*, the trial court refused to allow the

defendant to plead not guilty by reason of insanity despite the defendant's express request, and informed the defendant that his trial counsel was entitled to choose his plea. (*Id.* at p. 1253.) The Court of Appeal reversed, holding that "the infringement of appellant's right to enter the plea of his choice, when there was evidence to support that choice, even though his counsel disagreed with that choice, entitles him to a new trial." (*Ibid.*)

Unlike *Clemons*, here there is no evidence that Coronado disagreed with her counsel over which plea to enter or that Coronado did not wish to enter a plea of not guilty by reason of insanity. We conclude she was not prejudiced by her counsel's entry of a plea on her behalf. At the conclusion of the trial, because she was found sane, she was in the same position as if she had not entered an insanity plea.

Coronado also argues she was not properly admonished as to the consequences of her insanity plea because the trial court did not inform her that she could be committed to a mental hospital indefinitely. (See Pen. Code, § 1026.5, subd. (b).) When a defendant enters the solitary plea of not guilty by reason of insanity she "thereby admits the commission of the offense charged." (Pen. Code, § 1016.) Under those circumstances, the trial court is required to advise the defendant the plea could result in an indefinite commitment in a state hospital. (*People v. Weaver* (2001) 26 Cal.4th 876, 964; *People v. Vanley* (1974) 41 Cal.App.3d 846, 855.) Here, Coronado pled both not guilty and not guilty by reason of insanity. "Because [she] did not admit any element of the charged crimes and was not giving up any rights, there was no need to advise [her] of those rights." (*Weaver*, at p. 964.) Again, we find no prejudice in any event:

she was found sane; she will not be committed to a mental hospital.

IV. Coronado's Counsel Did Not Provide Ineffective Assistance

Coronado contends her trial counsel rendered ineffective assistance in failing to present expert testimony to support her argument that she did not actually form the specific mental states for first degree murder due to her mental illness. We disagree.

Applying the two-prong legal standard first announced in *Strickland v. Washington* (1984) 466 U.S. 668 *(Strickland)*, our Supreme Court has stated, "In order to establish a claim of ineffective assistance of counsel, defendant bears the burden of demonstrating, first, that counsel's performance was deficient because it 'fell below an objective standard of reasonableness . . . under prevailing professional norms.' [Citations.]" (*People v. Ledesma* (2006) 39 Cal.4th 641, 745–746.) In evaluating trial counsel's actions, "[a] court must indulge a strong presumption that counsel's acts were within the wide range of reasonable professional assistance." (*People v. Dennis* (1998) 17 Cal.4th 468, 541 (*Dennis*).)

To satisfy the second prong of *Strickland's* test, the defendant must also show prejudice, namely that there is a reasonable probability the result of trial would have been more favorable for him or her but for counsel's deficient representation. (*Dennis*, *supra*, 17 Cal.4th at p. 540.) "A reasonable probability is a probability sufficient to undermine confidence in the outcome." (*Strickland*, *supra*, 466 U.S. at p. 694.) It " ' "does not mean more likely than not, but merely a *reasonable chance*, more than an

abstract possibility." [Citation.]' " (*Richardson v. Superior Court* (2008) 43 Cal.4th 1040, 1050.)

We do not agree with Coronado's assertion that there is no plausible explanation for her counsel's decision to forego expert testimony on the defense theory of diminished actuality.[4]

The record suggests at least three plausible tactical reasons for defense counsel to decline to present expert testimony during the guilt phase. The first is glaring: calling experts to testify during the guilt phase would open the door to the introduction of a highly incriminating admission Coronado made to the police. Specifically, while in the hospital, Sergeant Robert Martindale informed Coronado that her husband believed she killed the children because he wanted a divorce, to which Coronado responded, "He's right."

The prosecutor did not attempt to introduce this admission—which was strong evidence that Coronado acted with intent, premeditation, and deliberation—during the guilt phase, almost certainly because there were potential *Miranda* issues with it.[5] The admission did come out, however, during the sanity

---

[4] A jury may consider a defendant's "mental condition in deciding whether a defendant *actually* formed the requisite criminal intent." (*People v. Williams* (1997) 16 Cal.4th 635, 677.) This is often referred to as a "diminished actuality" defense.

[5] During a pre-trial discussion, the court noted there were potential *Miranda* issues with a statement Coronado made to police. The exact statement was not specified, but there are only two statements to the police that are apparent from the record. The other statement was also in response to a question posed by Sergeant Martindale. Martindale asked if Coronado committed the murders to get back at her husband. Coronado responded: "If that's true, do I get a better deal?"

phase, when the prosecution and defense presented competing expert testimony related to Coronado's mental state.[6]

We have little doubt that had Coronado presented expert testimony during the guilt phase, the prosecutor would have sought to introduce her admission during that phase as well. The prosecutor certainly would have inquired into whether Coronado's expert considered the admission and how it affected the expert's opinion.[7] This is precisely how the prosecutor used the admission when examining Dr. Plotkin during the sanity phase. It is also likely the trial court would have allowed the prosecutor to use the admission for purposes beyond this. Indeed, the court permitted the prosecutor to introduce and use the admission without limitation during the sanity phase. The court also indicated during a pre-trial discussion that there was no objection to the admission—even on *Miranda* grounds—to the extent it was a basis for an expert's opinion: "[The prosecutor] indicated that she doesn't believe that the people's expert may have relied on . . . any of the statements given to the police in the basis of his opinion; if that comes up, I think there is still no

---

[6] The prosecutor introduced the admission during the sanity phase through testimony from Sergeant Martindale. The prosecutor then used the admission during the examination of her expert, Dr. Plotkin, as well as in her closing argument.

[7] An expert may be cross-examined on the bases for her opinion and whether she knew or considered information relevant to the issue on which she has offered an opinion. (Evid. Code, § 721; *People v. Bell* (1989) 49 Cal.3d 502, 532; *People v. Doolin* (2009) 45 Cal.4th 390, 434.)

objection as to both sides with regards to the experts considering that."

In the guilt phase, this admission by Coronado was the death knell to any chance she had of being found not guilty of first degree murder or guilty of any lesser offense thereto. There was simply no question that she killed her children; the only question was whether she did so with the requisite intent. Coronado was found naked and bloodied with a knife in her hand immediately after she stabbed her three-month-old baby and one- and two-year-old daughters in their jugular veins, hearts, and chests and also bludgeoned one in the head at least three times with a hammer. Coronado's statement to the detective answered the question of why a mother would use at least four different weapons to systematically, sequentially, and brutally stab and bludgeon her three young children: to get back at her husband. It definitively showed she acted with intention, premeditation, and deliberation. Allowing introduction of this evidence during the guilt phase truly would have been incompetent; finding a way to prevent its presentation gave Coronado her only shot at a defense to the crime.

A second plausible tactical reason for defense counsel to forego the introduction of available expert testimony during the guilt phase is also significant: such testimony would have assisted the prosecutor in proving Coronado had the requisite intent for first degree murder. Indeed, Dr. Barnes's testimony—which defense counsel wisely saved for the sanity phase—showed that Coronado intended to kill her children and did so with premeditation and deliberation. Dr. Barnes opined that Coronado killed her children as an act of altruistic filicide, in which "a woman takes the life of her children truly believing in

her psychotic state that it is in the best interests of her children to do that; that it is actually the death—that their death is not as bad a fate as their remaining alive. So it's . . . in the psychotic mind of a mother, it's a loving act."[8] According to Dr. Barnes, Coronado was concerned with her children's safety, possibly due to her own history of trauma, and she killed the children to send them "to heaven where she knew they could be safe."

While Dr. Barnes's opinion indicates Coronado committed the killings under the mistaken impression they would result in protecting her children, it also unequivocally reveals that the murders were intentional, willful, deliberate, and premeditated. If Coronado killed her children believing death was better for them than living, she intended to kill them, planned to kill them after thinking it out, and did so deliberately. It does not matter that her intentions were "altruistic." (See *People v. Saille* (1991) 54 Cal.3d 1103, 1113 ["once the trier of fact finds a deliberate intention unlawfully to kill, no other mental state need be shown to establish malice aforethought"].) Had defense counsel presented Dr. Barnes's opinion evidence in the guilt phase, it would have armed the prosecutor with a persuasive argument that Coronado did not act impulsively, but that she planned the killings in advance and executed that plan when given the opportunity, in a very deliberate way.

We can also see a third plausible tactical explanation for counsel not to present available expert testimony during the guilt phase: it would have blunted the effectiveness of such expert

---

[8] Dr. Barnes testified that altruistic filicide is one of five primary motives for a mother to kill her children, the others being accidental filicide, unwanted child, spousal revenge, and acutely psychotic filicide.

testimony during the sanity phase, at which counsel had a much higher probability of success. Drs. Sharma and Choi each diagnosed Coronado with some form of psychosis, which, according to Dr. Sepah, may cause, among other things, disorganized thought processes, hallucinations, and paranoid delusions. Admittedly, such evidence was conceivably relevant in both the guilt and sanity phases. For example, evidence that Coronado was suffering from disorganized thought processes and hallucinations at the time of the killings may have supported an argument at the guilt phase that the killings were not premeditated or deliberate. Alternatively, the evidence could have been used at the sanity phase to bolster Dr. Barnes's theory of altruistic filicide. If counsel could show that Coronado was suffering from paranoid delusions, it would help explain her seemingly irrational beliefs that her children were in danger and she could protect them by killing them.

Using the expert testimony at both the guilt and sanity phases may have blunted its effectiveness by asking the trier of fact to use the same evidence—as it was entitled to do—to support contradictory theories. In the guilt phase, the testimony would be used in support of a theory that Coronado killed her children without deliberation and premeditation; however, in the sanity phase, the same testimony would be used to support Dr. Barnes's theory that Coronado killed her children deliberately and with premeditation, albeit for a delusional purpose. At a bench trial, any jurist would readily perceive this inconsistency and, hearing the same evidence for a second time in support of a contradictory conclusion, might discount it in the

sanity phase.[9] Given the overwhelming physical evidence of premeditation and deliberation—Coronado stabbed her three-month-old baby and one- and two-year-old daughters in their jugular veins, hearts, and chests and also bludgeoned one child in the head at least three times with a hammer—counsel could have reasonably determined he was more likely to succeed with expert evidence if it were presented only during the sanity phase. Rather than looking with hindsight and dubbing counsel's choices ineffective, we find he made a reasonable tactical decision to delay calling the experts until when they would be most probative—when their testimony was admissible to show a mental disease or defect which prevented Coronado from understanding the nature and quality of her criminal acts, or appreciating their wrongfulness. This was a reasonable choice to present a trustworthy, believable, and cohesive defense.[10]

In addition to the three plausible tactical reasons for counsel's decision to forego expert testimony, a finding of ineffectiveness would be inappropriate because it is impossible to determine, based on the record before us, whether, or precisely how, these experts would have testified during the guilt phase.

---

[9] The trial is considered " 'single and continuing,' " save for keeping the issues of sanity and guilt distinct. (*Elmore*, *supra*, 59 Cal.4th at p. 141.)

[10] As noted, counsel did argue at the guilt phase that Coronado lacked the requisite mental state for first degree murder. However, counsel may have reasonably determined that making such an argument based on lay testimony, as opposed to expert testimony, would be less detrimental to his defense at the sanity phase.

Indeed, the record does not foreclose the possibility that counsel approached the experts about testifying during the guilt phase, but determined their testimony was unhelpful. Nor does the record foreclose the possibility that the available experts simply declined to testify at the guilt phase, especially given the horrific underlying facts. It is axiomatic that if the record fails to disclose why trial counsel acted or failed to act in the manner challenged, the ineffective assistance of counsel claim must be rejected unless counsel was asked for, and failed to provide, an explanation or there could be no plausible explanation. (*People v. Pope* (1979) 23 Cal.3d 412, 426, overruled on another ground in *People v. Berryman* (1993) 6 Cal.4th 1048, 1081, fn. 10.) We follow that well-established principle because the record here is silent as to counsel's motivations.

DISPOSITION

The judgment is affirmed.

BIGELOW, P.J.

We Concur:

RUBIN, J.

GRIMES, J.