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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

JASON CHRISTOPHER  
CARDUCCI,

Defendant and Appellant.

B282881

(Los Angeles County  
Super. Ct. No. SA091329)

APPEAL from a judgment of the Superior Court of Los Angeles County. Kathryn Solorzano, Judge. Affirmed.

Lisa Holder, 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, Senior Assistant Attorney General, Scott A. Taryle and Christopher G. Sanchez, Deputy Attorneys General, for Plaintiff and Respondent.

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Defendant Jason Christopher Carducci was charged by information with one count of first degree residential burglary (Pen. Code, § 459). Proceedings against defendant were suspended after the trial court determined that defendant was incompetent to stand trial. After his competence was restored, he was convicted by jury, and sentenced to the midterm of four years. On appeal, defendant contends the trial court violated his constitutional right to present a defense by excluding evidence that he had been found incompetent to stand trial. Defendant also contends the trial court violated his right to due process, and abused its discretion, when it sentenced him to the midterm sentence instead of the low term. Finding no merit in these contentions, we affirm.

#### **FACTUAL AND PROCEDURAL BACKGROUND**

On September 23, 2015, K.L. returned to her Santa Monica townhouse, after having been away for four to six weeks. K.L. used a hidden key to enter the home. Once inside, she noticed that numerous items were out of place, dresser drawers were pulled out, and curtains that had been left open were drawn shut. K.L. called police, who told her to wait outside.

When police did not respond immediately, K.L. reentered the home, and went upstairs to the bedrooms. In the bedroom that used to belong to her daughter, a well known actor, K.L. noticed that pictures of her daughter had been laid out on the dresser, in chronological order. The photographs had been taken from albums stored elsewhere in the home, and cut out of a book. Personal belongings of K.L.'s daughter, such as old letters and photographs, had been dumped in the trash.

The master bedroom and bathroom had been ransacked. A safe which was hidden under the bed had been opened, and \$2,000 was missing. The key for the safe had been well concealed in a pair of socks in the sock drawer. Torn up pictures of K.L.'s daughter were in the walk-in closet. Some had been affixed to the wall with tape.

Downstairs in the garage, K.L. noticed that the garage door was damaged, and that her car had damage on the passenger side, as if it had struck the garage door.

When police arrived, they determined that the perpetrator was likely to return, as it appeared he had been staying in the home, and items of value were still present. Police set up a sting operation, and after several hours, defendant walked into the townhome and was arrested. He was carrying a new iPad, and several other items purchased from Sears. Receipts indicated that defendant had paid for some of the items with cash. Defendant also had in his possession keys to the home and a key for K.L.'s car. At the time of his arrest, defendant was wearing an index card on his chest which said "Silent Actor," and he refused to speak.

Defendant's father, Richard Carducci, testified that defendant grew up in Oklahoma, and was a normal child. Defendant's mother suffered from mental illness, and was extremely paranoid. Defendant started displaying similar behavior when he was 16. When he was 20 years old, defendant abruptly left Oklahoma, and stopped communicating with his father. Several weeks later, Mr. Carducci received a call from police in Los Angeles asking that he identify defendant.

Mr. Carducci stayed in contact with defendant by telephone following his arrest, while he was housed in Patton State Hospital. At first, defendant acted strangely, but after he started taking medication, he began to sound normal.

In early November 2015, Forensic Psychiatrist Eric Chaghouri evaluated defendant, and documented his findings in a November 13, 2015 report. At the time of the evaluation, defendant was housed at the Twin Towers Correctional Facility high observation unit, where inmates with severe mental health issues are housed, following his arrest for burglary in this case.

When asked why he was at the location of his arrest, defendant told Dr. Chaghouri that he had just moved from Oklahoma, and had met K.L.'s daughter, the actor, at the mall. She invited him back to her place, and he had stayed there for several days. They had sex and were in a romantic relationship. She gave him keys to the house. Defendant told Dr. Chaghouri that they were no longer in a relationship, but defendant said that he would try to get back together with her.

Dr. Chaghouri believed that defendant was suffering from delusions, and diagnosed him with delusional disorder, erotomanic type. Defendant suffered from the false belief that he was in a romantic relationship with an actor. With this type of psychotic disorder, defendant would have aspects of his life which were normal, and unimpaired. But, on the subject of the imagined romantic relationship, he would have no insight, and would reject any evidence that was inconsistent with his delusion. Dr. Chaghouri believed that defendant was highly functional, notwithstanding his fixed delusion that he was in a

relationship with a famous actor. Defendant also seemed to understand that a crime had been committed, telling Dr. Chaghouri that he was arrested because police received an anonymous call that someone broke into the townhouse.

Forensic Psychiatrist Risa Grand testified that she evaluated defendant on January 28, 2017. When making her evaluation, she relied upon Dr. Chaghouri's "competency to stand trial evaluation report." She also relied on January 31, 2016 and February 8, 2016 progress reports from Patton State Hospital, which are typically sent to the court when "the hospital . . . believe[s] someone has been restored to competency." After reviewing the reports and interviewing defendant, Dr. Grand opined that defendant suffers from schizophrenia. She believed that defendant had a "break" from reality in the form of an erotomanic delusion about K.L.'s daughter. Dr. Grand did not believe her diagnosis was in conflict with Dr. Chaghouri's diagnosis. Rather, she believed defendant had developed additional symptoms after Dr. Chaghouri made his diagnosis.

While defendant was housed at Patton State Hospital, he was prescribed anti-psychotic and anti-depressant medications. He also underwent "competency restoration" while at Patton. Defendant received group therapy, and worked with a psychologist, psychiatrist, and social worker at Patton. He was there for approximately nine months. The duration of defendant's stay at Patton affected Dr. Grand's diagnosis. It indicated either that his symptoms were severe, or that he was resistant to treatment. Moreover, defendant seemed to have little insight into his mental illness, and did not believe that he

suffered from a chronic psychotic disorder.

Eventually, the court found defendant had been restored to competency and trial proceeded.

## **DISCUSSION**

### **1. Exclusion of Evidence**

Defendant contends the trial court abused its discretion, and violated his constitutional right to present a complete defense, when it prohibited him from presenting evidence that he had been deemed incompetent to stand trial. He contends the finding regarding his competence was relevant because it made it more probable that he suffered from continuous delusions.

At an Evidence Code section 402 hearing, the People asked that the defense be precluded from making any reference at trial to the fact that defendant had been deemed incompetent to stand trial. Defendant objected, reasoning that “the jury needs to hear the process [of his mental illness] to understand . . . how his mental health at the time of the incident affected his ability to form specific intent.” The trial court granted the People’s motion, reasoning that defendant’s previous incompetence to stand trial was irrelevant to whether he formed the specific intent to commit burglary, and had the potential to confuse and mislead the jurors.

Evidence Code section 352 vests the court with discretion to exclude evidence, where the probative value of the evidence is outweighed by the probability that its admission will necessitate undue consumption of time, pose a substantial danger of undue prejudice or confusion of the issues, or mislead the jury. (*Ibid.*) A trial court’s ruling to admit or exclude evidence under section 352 is reviewed for abuse of discretion. (*People v. Olguin* (1994) 31

Cal.App.4th 1355, 1373.) “ ‘Where . . . a discretionary power is inherently or by express statute vested in the trial judge, his or her exercise of that wide discretion must not be disturbed on appeal *except* on a showing that the court exercised its discretion in an arbitrary, capricious or patently absurd manner that resulted in a manifest miscarriage of justice.’ [Citation.]” (*Ibid.*)

In this case, the trial court correctly concluded that defendant’s capacity to stand trial was irrelevant to any issue in the case, and had the potential to confuse or mislead the jury. Defendant was permitted to introduce expert evidence of diminished actuality. The jury was instructed that it could consider defendant’s “mental disorder” for the “limited purpose of deciding whether, at the time of the entry into the structure, the defendant acted with the specific intent to commit theft . . . .” (See *People v. Whitler* (1985) 171 Cal.App.3d 337, 341; see also Pen. Code, §§ 28, 29.) A finding regarding mental competence to stand trial has little to do with whether a defendant could form the requisite intent for a crime. (*People v. Weaver* (2001) 26 Cal.4th 876, 960.) Instead, its sole focus is on whether “the defendant is unable to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a rational manner” “as a result of mental disorder or developmental disability. . . .” (§ 1367, subd. (a).) This finding has no bearing on whether defendant harbored the requisite specific intent to commit larceny at the time the burglary was committed, months before his competence was evaluated. We therefore find no abuse of discretion.

We also find no constitutional violation. “[A] defendant has no constitutional right ‘to present all relevant evidence in his favor, no matter how limited in probative value such evidence will be so as to preclude the trial court from using Evidence Code section 352.’” (*People v. Shoemaker* (1982) 135 Cal.App.3d 442, 450.)

And, in any event, any purported error was harmless. The jury was repeatedly apprised that defendant had to undergo continuing mental health treatment while these proceedings were pending, and numerous references to his competence were made by the mental health experts who testified at trial. Therefore, the jury was clearly aware defendant had chronic mental health issues. If evidence of defendant’s mental state after the crime was probative of defendant’s mental state during the crime, as defendant contends, this evidence was clearly before the jury.

## **2. Sentence**

Defendant contends the trial court abused its discretion when it sentenced him to the midterm of four years rather than the low term of two years, and effectively used defendant’s mental health as a circumstance in aggravation when making its sentencing decision.

At the sentencing hearing, defendant argued for the low term, which would permit him to be immediately released because of the time he had already spent in custody, arguing that his lack of criminal record and mental illness were circumstances in mitigation justifying the low term. The trial court expressed its concern about giving a low term sentence; specifically, the



court was skeptical that defendant would “turn himself into parole” if he was immediately released from custody. Defendant did not have ties to California, and lacked “insight about his mental health issues.” A report from Patton State Hospital indicated that defendant was “judged as a high risk for discontinuing his medication . . . .” The court stated that “I don’t want to punish [defendant] for his illness, but I do want to protect the community . . . as well as protect him.” The court concluded that defendant’s mental health issues could be better addressed if he was sentenced to prison, and that superior systems existed to help defendant transition from prison to parole.

The court also found that the following factors weighed against a low term sentence. Although defendant did not have a criminal record, he repeatedly broke into a house, and took a great deal of property and money. Defendant also displayed sophistication in entering a home belonging to a famous actor’s parents while he apparently suffered from a fixed delusion that he was involved in a relationship with the actor.

We review the trial court’s sentencing decisions for abuse of discretion. In exercising its discretion, the trial court “may consider circumstances in aggravation or mitigation, and any other factor reasonably related to the sentencing decision.” (Cal. Rules of Court, rule 4.420(b).) The trial court is given wide discretion in weighing aggravating and mitigating circumstances (*People v. Evans* (1983) 141 Cal.App.3d 1019, 1022; see also Pen. Code, § 1170, subd. (b)), and in conducting a quantitative and qualitative analysis of the factors involved (*People v. Lambeth*

(1980) 112 Cal.App.3d 495, 501). The circumstances in mitigation are set forth in California Rules of Court, rule 4.423. Among the factors relating to the defendant, the court may consider the defendant's lack of a prior record, and whether the defendant was "suffering from a mental . . . condition that significantly reduced culpability for the crime." (Rule 4.423(b)(1) & (2).) Circumstances in aggravation include that "[t]he manner in which the crime was carried out indicates planning, sophistication, or professionalism" and that "[t]he crime involved an attempted or actual taking or damage of great monetary value." (Rule 4.421(a)(8) & (9).)

We find no abuse of discretion here. No aggravating factor is necessary to justify a midterm sentence, but here, there were multiple aggravating factors. Defendant's crime demonstrated a high degree of sophistication in locating a home associated with a famous actor, the target of his delusion. He occupied the home for an extended period of time, during which he located the key to the safe hidden in a sock in a sock drawer and stole at least \$2,000. He caused significant damage to the property, including destroying memorabilia and driving and damaging K.L.'s car. The trial court did not punish defendant for his mental illness. Instead, the trial court fairly concluded that defendant's mental health was not a mitigating factor, as he had repeatedly declined to follow advice to take medication, thereby choosing to continue posing a risk to society.

**DISPOSITION**

The judgment is affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

RUBIN, J.