

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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.

MARK DANIEL DOOLAN,

Defendant and Appellant.

2d Crim. No. B272123
(Super. Ct. No. 2015025850)
(Ventura County)

Mark Daniel Doolan was charged with a single felony count of battery on a peace officer by gassing. (Pen. Code, § 243.9, subd. (a).)¹ The complaint contained special allegations that prior to the commission of the instant offense, Doolan was convicted and imprisoned for making terrorist threats, stalking, and evading an officer. (§§ 422, 646.9; Veh. Code, § 2800.2.) He pled not guilty and denied the special allegations.

¹ “Gassing” is “intentionally placing or throwing . . . upon the person of another, any human excrement or other bodily fluids . . . that results in actual contact with the person’s skin or membranes.” (§ 243.9, subd. (b).) All statutory references are to the Penal Code, unless otherwise indicated.

Defense counsel made a pretrial motion to present medical testimony showing that Doolan's mental disorder produces irritability, delusions and auditory hallucinations, symptoms he exhibited the day after committing the charged crime. The trial court denied the motion because Doolan did not plead not guilty by reason of insanity, and expert testimony about a mental disorder cannot be used to prove the defendant's mental state, including his purpose, intent, or knowledge, in a general intent crime like gassing. (§§ 28, 29.)

A jury heard testimony that Doolan was in a pretrial detention on August 13, 2015. After verbally threatening to shoot deputies who were moving him to a new cell, Doolan flung a cup full of his own urine at one of the deputies, soaking through the officer's clothing and contacting his skin and eyes. The testimony was bolstered by a video showing Doolan urinating into a styrofoam cup before throwing the contents at the deputy. Doolan was convicted of the gassing charge.

The trial court granted a defense motion to dismiss Doolan's prior conviction for making terrorist threats, because Doolan seemed unlikely to carry out his threat of violence, and the crime was caused by mental illness. The court imposed the low term of two years imprisonment, plus a one year enhancement. (§ 667.5, subd. (b).)

Doolan appealed the judgment and sentence. We appointed counsel to represent Doolan in this appeal. After examining the record, counsel filed an opening brief raising no issues. On November 28, 2016, we advised Doolan that he had 30 days within which to personally submit any contentions or issues that he wishes to raise on appeal. We received no reply.

We have reviewed the entire record and are satisfied that Doolan's attorney fully complied with his responsibilities

and that no arguable issue exists. (*People v. Wende* (1979) 25 Cal.3d 436, 441, 443; *People v. Kelly* (2006) 40 Cal.4th 106, 126.)

The judgment is affirmed.

NOT TO BE PUBLISHED.

PERREN, J.

We concur:

GILBERT, P. J.

TANGEMAN, J.

John Reid, Judge
Ryan J. Wright, Judge
Superior Court County of Ventura

Greg May, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.