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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID LOUIS RILEY,

Defendant and Appellant.

B259195

(Los Angeles County  
Super. Ct. No. TA128913)

APPEAL from a judgment of the Superior Court of Los Angeles County, Arthur M. Lew, Judge. Affirmed.

Paul Couenhoven, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Paul M. Roadarmel, Jr. and William N. Frank, Deputy Attorneys General, for Plaintiff and Respondent.

## I. INTRODUCTION

A jury convicted defendant, David Louis Riley, of first degree murder. (Pen. Code, § 187, subd. (a).)<sup>1</sup> The jury further found defendant personally used a deadly or dangerous weapon, a kitchen knife, in the commission of the crime. (§ 12022, subd. (b)(1).) The trial court sentenced defendant to 26 years to life in state prison. We affirm the judgment.

## II. THE EVIDENCE OF THE CRIME

On June 18, 2013, defendant stabbed Monica Moore multiple times, killing her. Defendant had gone to Ms. Moore's hotel room to obtain drugs. An argument over money ensued. Defendant stabbed Ms. Moore. He left the motel room, taking her purse and the knife with him. Defendant tossed those items from his car as he fled the scene. Investigators found Ms. Moore's social security card in a seat pocket of defendant's vehicle. Deoxyribonucleic acid evidence also connected defendant to the crime. Ms. Moore's blood was on defendant's clothing, his cellular telephone and in his car.

Defendant's six-year-old daughter, Destiny, and seven-year-old son, Daniel, were witnesses to the stabbing. Shortly after the crime was committed, the children told their mother, Shahera Juarez, what they had observed.

Ms. Juarez was separated from defendant because of his drug use. The day following the stabbing, defendant met with Ms. Juarez. Defendant was under the influence of drugs. Defendant told Ms. Juarez he was high because, "I just murdered someone." While detained awaiting trial, defendant repeatedly attempted to convince Ms. Juarez not to testify against him.

Detectives interviewed Destiny and Daniel on June 18, 2013, and again on December 20, 2013. The children consistently told the officers as follows. Defendant

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<sup>1</sup> Further statutory references are to the Penal Code unless otherwise noted.

knocked on a women's door and went inside. When the woman came out, she had blood on her face. Destiny saw "strided knives - - lines" on the woman's face. Daniel said, "[The woman] was bleeding real bad and she was stabbed in the stomach." She was calling for help. Both children said the woman asked defendant, "Why did you do that?" Defendant did not respond. Defendant just got in the car and drove away. Destiny said defendant drove fast and went through three red lights. Destiny saw blood on defendant's hand, forearm and shirt. Both children saw a knife in defendant's hand. Daniel told the officers defendant used the knife to cut the lady's face. While driving, defendant threw the knife out the car window. Defendant also had the woman's red purse. Daniel saw defendant take money out of the purse. Destiny said defendant took money out of the purse to buy gas.

At trial, Destiny was questioned about seeing the bloody victim: "Q [T]alk about the lady a little bit. Okay? [¶] A Okay. [¶] Q And you saw the lady with blood on her face; right? [¶] A Right. [¶] Q And when you saw the lady's face, there was -- there were lines on her face; right? A Right." Defendant had knocked on the door and the "lady," to use the Destiny's words, had let him in. Defendant came out. Then the lady came out. She had blood on her face and she was yelling for help. She said, "Why did you do that, David?" Defendant drove away fast. He drove through three red lights. He had blood on his hand. He had a bloody knife in his hand. He threw it out the car window. Defendant also had the lady's red purse. Destiny saw it on the front seat of the car.

Daniel similarly testified at trial. They drove to a motel. Defendant went into a motel room. When defendant exited the room, a lady followed. She had cuts on her arm and head. She had blood on her arms. She screamed for help. Defendant had a bloody knife in his hand. Daniel also saw a red purse in the car. Defendant took money out of the purse.

Defendant testified in his own defense. Defendant admitted he was a crack cocaine addict. He admitted going to the motel to buy drugs. He admitted going into Ms. Moore's motel room. He denied stabbing her. Defendant claimed another man had

argued with Ms. Moore and stabbed her. Defendant said he was using Ms. Moore's bathroom when the altercation between Ms. Moore and the other man occurred. Defendant admitted that in the days following the stabbing he smoked crack cocaine. He possessed crack cocaine and a pipe when police officers arrested him two days after Ms. Moore's death. Defendant denied pressuring Ms. Juarez to lie for him.

### III. DISCUSSION

Defendant asserts his trial counsel was ineffective for failing to interject an Evidence Code section 352 objection to evidence of defendant's crack cocaine use. Defendant concedes his attorney objected on relevance grounds. We hold defendant has not shown any prejudicial ineffective assistance of counsel.

As our Supreme Court has explained, an ineffective assistance of counsel claim had two components: "To secure reversal of a conviction upon the ground of ineffective assistance of counsel under either the state or federal Constitution, a defendant must establish (1) that defense counsel's performance fell below an objective standard of reasonableness, i.e., that counsel's performance did not meet the standard to be expected of a reasonably competent attorney, and (2) that there is a reasonable probability that defendant would have obtained a more favorable result absent counsel's shortcomings. (*Strickland v. Washington* (1984) 466 U.S. 668, 687-694; see *Williams v. Taylor* (2000) 529 U.S. 362, 391-394; *People v. Kraft* (2000) 23 Cal.4th 978, 1068.)" (*People v. Cunningham* (2001) 25 Cal.4th 926, 1003; accord, *People v. Carrasco* (2014) 59 Cal.4th 924, 982.) An appellate court need not determine whether counsel's performance was deficient before examining prejudice. (*Strickland v. Washington, supra*, 466 U.S. at p. 697; *People v. Carrasco, supra*, 59 Cal.4th at p. 982; *In re Champion* (2014) 58 Cal.4th 965, 1007-1008.) "[A] court need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies . . . . If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, which we expect will often be so, that course

should be followed.” (*Strickland v. Washington, supra*, 466 U.S. at p. 697; accord, *People v. Carrasco, supra*, 59 Cal.4th at p. 982; *In re Champion, supra*, 58 Cal.4th at pp. 1007-1008.)

Even if trial counsel had interposed an Evidence Code section 352 objection (in addition to the relevance objection), there is no reasonable probability defendant would have obtained a more favorable result. Defendant himself testified he was a crack cocaine addict who had gone to Ms. Moore’s motel room to purchase drugs. The crack cocaine evidence was directly relevant to why defendant went to the motel room. Moreover, the evidence of defendant’s guilt was overwhelming.

#### IV. DISPOSITION

The judgment is affirmed.

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TURNER, P.J.

We concur:

MOSK, J.

KRIEGLER, J.