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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

D.A.,

Defendant and Appellant.

2d Crim. No. B278615  
(Super. Ct. No. 16MH-0118)  
(San Luis Obispo County)

D.A., a mentally disordered offender (MDO; Pen. Code, § 2962 et seq.),<sup>1</sup> appeals an order authorizing Atascadero State Hospital to involuntarily administer psychotropic medication to treat appellant's severe mental disorder. (*In re Qawi* (2004) 32 Cal.4th 1.) Appellant contends the evidence does not support the trial court's finding that he lacks the capacity to refuse treatment. We affirm.

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<sup>1</sup> All statutory references are to the Penal Code unless otherwise stated.

### *Facts and Procedural History*

On July 6, 2016, appellant (age 36) was adjudicated an MDO and committed to Atascadero State Hospital (ASH) for treatment. On October 6, 2016, three months after appellant's admission, the Department of State Hospitals filed a petition for a *Qawi* order (*In re Qawi, supra*, 32 Cal.4th 1) to involuntarily administer psychotropic medication. The verified petition stated that appellant suffered from schizophrenia, a severe mental disorder manifested by disorganized thought processes, grossly disorganized behavior, delusions and hallucinations.

Doctor William Yee, appellant's attending psychiatrist, testified that appellant's current diagnosis is schizophrenia and that appellant suffers from anosognosia, a severe thought disorder. Anosognosia "is like being color blind. [Appellant] lacks the ability to recognize his symptoms and the violent behavior to himself, and when you start talking about it, he feels like you are persecuting him and he becomes paranoid that you . . . have bad intentions towards his welfare because those aren't, in his mind, part of him."

Doctor Yee testified that appellant will not take his medications unless ordered to do so because appellant does not believe he has a mental illness and thinks his symptoms are all stress related. Appellant has been prescribed Risperidone, which is effective, and Hydroxyzine and Olanzapine as needed. Without the medications, appellant suffers from auditory and visual hallucinations, persecutory beliefs, disorganized thoughts, and violent episodes. When appellant takes his medications, the symptoms are ameliorated and the delusions are substantially muted. Doctor Yee stated there is no alternative treatment, and that even with antipsychotic medication, appellant is only in

partial remission. On cross-examination, Doctor Yee acknowledged that appellant was taking his medication but opined it was only because there was a prior *Qawi* order in place to administer medication.

Appellant testified on his own behalf and admitted that he refused to take his medication while incarcerated in Riverside County earlier in the year. Appellant said the medication was for “a stress breakdown, like a depression breakdown, and they told me that it was schizophrenia, and I didn’t believe that was true.” Appellant was prescribed Zyprexa, which appellant believed was inappropriate, and then prescribed Hydroxyzine and “Risperdal” (i.e., Risperidone) which appellant said is “working. And I don’t have no problem with taking it. I have a problem with the [schizophrenia] diagnosis.”

The trial court found that appellant lacked the capacity to refuse treatment and issued an order permitting ASH to involuntary administer psychotropic medication to treat appellant’s mental disorder.

### *Discussion*

We review for substantial evidence. (*People v. O’Dell* (2005) 126 Cal.App.4th 562, 570.) Appellant argues that Doctor Yee’s testimony is conclusory and lacks sufficient details to find that appellant is incapable of understanding the need for treatment. We do not reweigh or reinterpret the evidence on appeal. (*People v. Pace* (1994) 27 Cal.App.4th 795, 798.) Our role is only to determine whether there is sufficient credible evidence, contradicted or uncontradicted, to support the judgment. (*People v. Superior Court (Jones)* (1998) 18 Cal.4th 667, 681.)

Judicial determination of whether an MDO is competent to refuse antipsychotic medication focuses on three

factors: (1) whether the patient is aware of his mental illness; (2) whether the patient understands the benefits and risks of treatment as well as the alternatives to treatment; and (3) whether the patient is able to understand and evaluate the information regarding informed consent and participate in the treatment decision by rational thought processes. (*In re Qawi*, *supra*, 32 Cal.4th at pp. 17-18; *Riese v. St. Mary's Hospital & Medical Center* (1987) 209 Cal.App.3d 1303, 1322-1323.)

With respect to the first factor, the evidence shows that appellant is not aware of his mental illness. Appellant suffers from schizophrenia and has exhibited psychotic symptoms since age 18. He was hospitalized at Patton State Hospital (1984) and at ASH from 2008 through 2010 as an MDO. Doctor Yee stated that appellant lacks the capacity to recognize his symptoms and how it relates to his past violent behavior. That was confirmed by appellant's own testimony. Appellant denied having a mental disorder and said his symptoms were the result of depression and stress, not schizophrenia. Before trial, appellant told Doctor Yee, "I don't think I have schizophrenia. I am depressed. My mom died when I was eight years old."

On the second factor, the evidence demonstrates that appellant does not understand the benefits and risks of treatment. Appellant not only denies that he has a mental disorder but lacks the ability to recognize that the prescribed medications are necessary to treat the disorder. Doctor Yee testified that appellant does not recognize his symptoms or how he can benefit from the prescribed medication. It is a concern because there is no alternative form of treatment. Without the prescribed medications, appellant suffers from auditory and

visual hallucinations, persecutory beliefs and disorganized thoughts, and violent episodes.

With respect to the third factor, the evidence shows that appellant lacks the capacity to understand and to knowingly, intelligently and rationally evaluate and participate in the treatment decision by means of rational thought processes. (*In re Qwai*, *supra*, 32 Cal.4th at p. 18.) Doctor Yee stated that appellant “becomes very reticent and guarded when you try to address his mental illness in terms of helping him . . . understand his illness, helping to understand whether he needs to increase his medications.” The doctor opined that appellant will not take his medications absent a court order to do so. Because appellant has anosognosia, “he lacks the capacity to recognize his illness, recognize the need for medication, [and] recognize when he needs to ask for an increase in medication.”

Substantial evidence supports the finding that appellant lacks capacity to refuse treatment. The testimony of a single qualified expert is sufficient to support the trial court’s findings. (See, e.g., *People v. Valdez* (2001) 89 Cal.App.4th 1013, 1018.)

#### *Disposition*

The judgment (*Qawi* order permitting involuntarily administration of psychotropic medication) is affirmed.

NOT TO BE PUBLISHED.

YEGAN, Acting P. J.

We concur:

PERREN, J.

TANGEMAN, J.

Michael L. Duffy, Judge

Superior Court County of San Luis Obispo

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