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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE, Plaintiff and Respondent, v. ROHAN ANDERSON, Defendant and Appellant.	B237577 (Los Angeles County Super. Ct. No. BA367665)

APPEAL from a judgment of the Superior Court of Los Angeles County. Anne Egerton, Judge. Affirmed with directions.

Matthew Alger, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Margaret E. Maxwell and Douglas L. Wilson, Deputy Attorneys General, for Plaintiff and Respondent.

Rohan Anderson was convicted of second degree murder (Pen. Code, § 187) after shooting and killing Larick Matheson. On appeal, Anderson argues that his conviction should be reversed because he was precluded from offering evidence that Matheson had been arrested in 2006. We affirm the conviction but order a correction to the abstract of judgment.

FACTUAL AND PROCEDURAL BACKGROUND

On August 22, 2009, Matheson took Marcia Beezer to her mechanic's residence to retrieve a car. When they arrived they saw Anderson, known as "Tunky," outside the home with another person. Beezer asked, "Isn't that Tunky?" and Matheson told her that it was, but that Anderson was not friends with anyone.

After unsuccessfully trying to telephone the mechanic, Matheson left the car and walked toward the house's front door. Anderson told his companion that he would be right back, then approached Matheson at the front of the home and shot him. Anderson walked away holding the gun.

Matheson stumbled toward a car and then fell to the ground, saying, "Tunky killed me, Tunky killed me." He told a friend who rushed from the house, "Tunky shoot me and I don't know why Tunky shoot me, but I don't do anything." When a police officer arrived, Matheson told him that Tunky had shot him. Matheson died of blood loss from multiple gunshot wounds.

Anderson claimed to have shot Matheson in self defense. Anderson was convicted of second degree murder and of possession of a firearm by a person with a prior conviction. He appeals.

DISCUSSION

I. Exclusion of Evidence

Prior to the presentation of the defense, Anderson requested permission to introduce evidence that in 2006 Matheson had been "found in an apartment that had both marijuana, a large amount of marijuana, I think three quarters of a ton of marijuana and several guns." Matheson had been arrested and charged with a violation of Health and Safety Code section 11359, possession of marijuana for sale, but the charge was later dismissed. Anderson had subpoenaed several officers and intended for them to "come in to testify to their observations with respect to that." Anderson was not present at the time of the arrest. He claimed to have paid for Matheson's defense counsel.

Anderson's counsel argued that the incident was relevant both to the objective and subjective elements of a self-defense claim. Specifically, he claimed it was relevant "to the subjective components of self-defense because it shows why my client was afraid of the victim in this case. He has intimate knowledge that the victim, Mr. Matheson, was a drug dealer." The court ruled that Anderson could testify to his personal knowledge, if any, of Matheson's involvement with drugs and guns, but that the 2006 incident, particularly in the absence of any evidence that Anderson had been present, was not relevant and also presented a risk of diverting the trial to collateral issues, unduly consuming court time.

On appeal, Anderson first contends that the exclusion of this evidence deprived him of a meaningful opportunity to present a complete defense because it was relevant to his credibility when he testified that Matheson was a drug dealer who carried a firearm. Anderson claims that the evidence of the arrest, even though it did not involve a conviction, tended to corroborate his claim about Matheson, drugs, and weapons, and that in the absence of the evidence the jury "necessarily" viewed Anderson's testimony "as a drug dealer's self-serving attempt to absolve himself of responsibility for a cold-blooded murder." Anderson also claims that the evidence was relevant and more probative than prejudicial under California law, and therefore should have been admitted.

We conclude that the trial court did not err in excluding this evidence. Anderson was not deprived of a meaningful opportunity to present his self-defense theory: he was permitted to testify that he had been to Matheson's house and had seen firearms there; that they were both drug dealers; that they each carried guns; and that they had worked together on drug deals. Precluding the admission of evidence of an unrelated instance years earlier in which Matheson was present with weapons and drugs "did not rise to the level of an unconstitutional deprivation of the right to present a defense. As a general matter, the '[a]pplication of the ordinary rules of evidence . . . does not impermissibly infringe on a defendant's right to present a defense.' [Citations.] Although completely excluding evidence of an accused's defense theoretically could rise to this level, excluding defense evidence on a minor or subsidiary point does not impair an accused's due process right to present a defense. [Citation.] If the trial court misstepped, '[t]he trial court's ruling was an error of law merely; there was no refusal to allow [defendant] to present a defense, but only a rejection of some evidence concerning the defense.' [Citation.]" (*People v. Fudge* (1994) 7 Cal.4th 1075, 1102-1103.) This was, at most, a rejection of some evidence concerning Anderson's defense, not a constitutionally significant deprivation of an entire defense.

Moreover, we find no error of state law here. The proffered evidence had extremely minimal, if any, relevance. The arrest had occurred more than three years before the shooting. Anderson had no personal knowledge of the events because he was not present. Based on the offer of proof there appeared to be no similarity between the incident and the present case. There was no evidence that Matheson had been in possession of any of the firearms found in the 2006 incident, or that the firearms belonged to or were in any respect linked to him. Similarly, there was no evidence that Matheson's presence at the home on the day of his death had anything to do with firearms or drugs. At best, the evidence tended to establish that in 2006 Matheson had been in the presence of people who possessed drugs and firearms and that he had been arrested in conjunction with the marijuana that had been recovered, a limited proposition that may be

consistent with but does not actually corroborate Anderson's claim that Matheson as a gun-carrying drug dealer.

Were the court to have permitted introduction of this collateral evidence, moreover, the secondary issue of what happened in 2006 could easily have consumed an inordinate amount of court time. Anderson wished to present the testimony of multiple law enforcement officers. The prosecution would then have been entitled to present evidence to rebut the inference Anderson sought to draw; specifically, evidence that the firearms recovered had been possessed by the other men who were arrested and actually convicted in that case. The prosecutor who had handled the prior case against Matheson would have most likely been called to testify why the charge against Matheson had been dropped, and Matheson's defense attorney, if he had counsel, could have been called to testify as to how he or she was compensated, as this would bear on Anderson's claim that he knew about the incident because he paid for Matheson's counsel. The trial court reasonably anticipated that the presentation of Anderson's proffered evidence would have devolved into a time-consuming mini-trial on a collateral issue. The court did not err in concluding that the probative value of this evidence was substantially outweighed by the probability that its admission would necessitate an undue consumption of time. (Evid. Code, § 352.) Anderson has not established error here.

II. Abstract of Judgment

Anderson's abstract of judgment inaccurately states that he was convicted of first degree murder when he was convicted of murder in the second degree. We direct the clerk of the superior court to prepare a corrected abstract of judgment and to forward a certified copy of the abstract of judgment to the Department of Corrections and Rehabilitation.

DISPOSITION

The clerk of the superior court is directed to prepare a corrected abstract of judgment reflecting Anderson's conviction of second degree murder and to forward a certified copy of the abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

ZELON, J.

We concur:

PERLUSS, P. J.

JACKSON, J.