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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.

GABRIEL JOSEPH CASADOS,

Defendant and Appellant.

B283201

(Los Angeles County
Super. Ct. No. KA111449)

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

Carlos Ramirez, 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, Assistant Attorney General, Marc A. Kohm and Peggy Z. Huang, Deputy Attorneys General, for Plaintiff and Respondent.

INTRODUCTION

A jury convicted defendant and appellant Gabriel Casados of driving on the wrong side of the road while fleeing a peace officer, and possession of a controlled substance. Casados contends there was insufficient evidence to support the conviction for fleeing a peace officer. He also asks us to review the sealed record of an *in camera* hearing conducted pursuant to *Pitchess v. Superior Court* (1974) 11 Cal.3d 531 (*Pitchess*). We affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

On November 23, 2015, around 12:30 a.m., El Monte Police Officer Francisco Ramirez, who was dressed in a full police uniform, was travelling eastbound on Garvey Avenue in a marked black and white police vehicle. Ramirez was driving behind another marked black and white police vehicle driven by Officer Cody Cowell, who was also wearing a police uniform. Both Ramirez and Cowell verified their vehicles' lights and sirens were working at the start of their shift.

Officers Ramirez and Cowell drove past Casados, who was on a motorcycle and stopped at a stop sign. Casados was positioned in such a way that it appeared he intended to turn right onto Garvey Avenue. After the officers passed, Casados made an illegal left turn. Ramirez thought this was suspicious, so he and Officer Cowell made U-turns and followed Casados westbound on Garvey Avenue. Ramirez observed that the motorcycle did not have a rear-license plate or rear lighting, which were violations of the Vehicle Code.

When Ramirez got close to the motorcycle, Casados turned southbound onto Tyler Avenue. Ramirez activated his vehicle's forward-facing red light and siren in an attempt to conduct a

traffic stop. Rather than yield, Casados increased his speed. Cowell activated his lights and siren and followed behind Ramirez.

The officers pursued Casados at a distance of 100 to 300 yards as he made six turns over the course of two to three miles. Casados was travelling at speeds between 50 and 70 miles per hour in 25 and 35 mile-per-hour zones. He committed numerous other traffic violations during the pursuit, including running several red lights and stop signs. At one point, Casados drove on the wrong side of the road for approximately 50 yards in order to avoid several vehicles stopped at a red light. At another point, Casados briefly drove on the wrong side of the road after making a right hand turn at a high rate of speed.

As Casados approached his house, he attempted to make a turn and lost control of the motorcycle. The motorcycle slid across the pavement, and Casados was ejected from it. The officers eventually handcuffed and searched Casados. They discovered on Casados a little over eight grams of methamphetamine.

Criminal Case

The people filed an information charging Casados with driving on the wrong side of the road while fleeing a peace officer (Veh. Code, § 2800.4; count 1),¹ possession for sale of a controlled substance (Health & Saf. Code, § 11378; count 2), transportation of a controlled substance (Health & Saf. Code, § 11379, subd. (a); count 3), and resisting a peace officer (Pen. Code, § 148, subd. (a)(1); count 4). The case was tried to a jury, and the People presented evidence establishing the facts summarized above.

¹ All further unspecified statutory references are to the Vehicle Code.

Casados testified at trial that, around 12:30 a.m. on November 23, he was riding his motorcycle home from a friend's house. He was wearing a helmet equipped with wireless speakers and listening to music at "full blast." Earlier that day, Casados had consumed methamphetamine and an herbal supplement used for stamina and energy. While riding home, he began to feel the effects of the supplement, which caused him to hallucinate multi-colored flashes of light.

While waiting to turn onto Garvey Avenue, Casados saw two police cars pass by him. Casados did not have a driver's license and did not want to go the same direction as the officers. He turned left onto Garvey Avenue and "floored it" to about 45 or 55 miles per hour. He then made a left turn onto Tyler Avenue and "took off."

Casados maintained he was not aware Officers Ramirez and Cowell were following him until after he crashed his motorcycle. Casados explained that he did not hear the sirens because his motorcycle was loud and he was listening to a song with sirens in it. He acknowledged his motorcycle had rearview mirrors, but asserted they were lower than they should have been. Casados further explained that he did not recognize the flashing lights from the police vehicles because he had been hallucinating.

Casados admitted he drove on the wrong side of the road and ran several stop signs and red lights. He explained that he did so because he wanted to get home quickly to take care of his sick father. On cross-examination, Casados acknowledged he did not take a direct route to his house, but explained that he "didn't feel like it."

Casados's neighbor, Paris Puga, testified that around midnight on November 23, he was inside his house watching television when he heard and saw lights and sirens. The lights could be seen "all over the block" and they lit up the entire street. Puga looked outside and saw Casados stumbling away from his motorcycle. Officer Cowell ran up behind Casados and pushed him to the ground. Officer Ramirez fell on Casados, and both officers yelled for him to stop resisting. Casados was not moving, and it was clear he was injured.

Pedro Lane testified that in 2014, he illegally rode a dirt bike while pursued by Officer Cowell. Lane did not realize he was being pursued because the dirt bike was loud. After Lane stopped his bike, an officer tackled him to the ground and Cowell tried to break his arm. Lane filed a complaint for excessive force, but he later decided to drop the case.

Verdict and Sentence

The jury convicted Casados of driving on the wrong side of the road while fleeing a peace officer (§ 2800.4; count 1). On count 2, it convicted him of the lesser included offense of possession of a controlled substance (Health & Saf. Code, § 11377, subd. (a)). The jury found Casados not guilty of the remaining counts.

The court sentenced Casados to the upper term of three years in prison on count 1, and one year in jail on count 2, to be served concurrently. The court awarded Casados 49 days of custody credit and imposed various fines and fees.

Casados timely appealed.

DISCUSSION

I. Sufficient Evidence Supported the Conviction for Violating Section 2800.4

Casados contends there was insufficient evidence to support his conviction for driving on the wrong side of the road while fleeing a peace officer. We disagree.

A. Standard of Review

When an appellant challenges the sufficiency of evidence supporting a jury's verdict, the reviewing court examines whether there was substantial evidence, considered as a whole, to permit a reasonable trier of fact to find the defendant guilty of the charged crime beyond a reasonable doubt. (*Jackson v. Virginia* (1979) 443 U.S. 307, 318–319; see also *People v. Smith* (2014) 60 Cal.4th 603, 617; *People v. Lindberg* (2008) 45 Cal.4th 1, 27.) The court's standard for determining what is "substantial evidence" is whether the evidence is "credible and of solid value." (*People v. Kraft* (2000) 23 Cal.4th 978, 1053.) One witness's testimony can be sufficient evidence to sustain a conviction. (*People v. Young* (2005) 34 Cal.4th 1149, 1181.)

The reviewing court presumes every fact the jury could have reasonably deduced from the evidence in support of the judgment. (*People v. Rangel* (2016) 62 Cal.4th 1192, 1212–1213; see also *People v. Lewis* (1990) 50 Cal.3d 262, 277.) "[T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.'" (*People v. Staten* (2000) 24 Cal.4th 434, 460.) Therefore, the reviewing court will not reverse a judgment for insufficient evidence unless "it appears 'that upon no hypothesis whatever is there sufficient substantial evidence to support [the

conviction].” [Citation.]” (*People v. Hughes* (2002) 27 Cal.4th 287, 370.) This standard of review applies to claims involving both direct and circumstantial evidence. (*People v. Manibusan* (2013) 58 Cal.4th 40, 87.)

B. Analysis

Section 2800.4 makes it a crime to “willfully drive[] . . . [a] vehicle on a highway in a direction opposite to that in which the traffic lawfully moves upon that highway” while “willfully flee[ing] or attempt[ing] to elude a pursuing peace officer in violation of Section 2800.1” (§ 2800.4.) A violation of section 2800.1, in turn, requires four elements: (1) the defendant saw, or reasonably should have seen, a red light visible from the front of the peace officer’s vehicle; (2) the peace officer’s vehicle was sounding an alarm as reasonably necessary; (3) the peace officer’s vehicle was distinctively marked; and (4) the peace officer was wearing a distinctive uniform. (§ 2800.1, subd. (a).)

Here, there was sufficient evidence from which the jury could conclude that Casados violated section 2800.4. The undisputed evidence showed that Officers Ramirez and Cowell pursued Casados over the course of two to three miles. During the pursuit, the officers were in full police uniforms and driving distinctively marked police vehicles, and the vehicles’ front-facing red lights and sirens were activated. Further, Casados admitted he willfully drove his motorcycle on the wrong side of the road during the pursuit.

There was also ample evidence from which the jury could infer Casados was aware he was being pursued, and willfully fled and intended to elude the officers. It was undisputed that the officers had their sirens and lights activated throughout the pursuit. Although the officers trailed Casados by a few hundred

yards, Puga testified that he could hear the sirens from inside his house and the officers' lights lit up the entire street. Casados's motorcycle was also equipped with rearview mirrors.

Moreover, during the pursuit, Casados drove at speeds significantly above the speed limit, made six turns, and ran several stop signs and red lights, all of which suggested he was attempting to evade the officers. Although Casados insisted he was simply trying to get home quickly, he admitted he did not take a direct route to his house. Further, it was undisputed that Casados was in possession of a significant amount of methamphetamine, he did not have a driver's license, and his motorcycle lacked a license plate and rear lighting, all of which provided motives for him to flee the police.

We find no merit to Casados's assertion that the evidence was insufficient to show he was aware he was being pursued. In support of his argument, Casados simply points to evidence in the record favorable to him, such as his testimony that he was listening to music in his helmet and hallucinating multi-colored flashing lights. The jury was clearly not persuaded by such evidence, and we neither reweigh evidence nor reevaluate witnesses' credibility. (*People v. Covarrubias* (2016) 1 Cal.5th 838, 890; *People v. Brown* (2014) 59 Cal.4th 86, 106.)

Casados's reliance on *People v. Mathews* (1998) 64 Cal.App.4th 485 (*Mathews*), and *People v. Shakhvaladyan* (2004) 117 Cal.App.4th 232 (*Shakhvaladyan*),² is misplaced. In *Mathews*, the court found insufficient evidence to support an evading conviction where the pursuing officer was in plain clothes with only a badge to identify himself as a police officer.

² Disapproved on another ground in *People v. Hudson* (2006) 38 Cal.4th 1002, 1011, footnote 3.

(*Matthews, supra*, at p. 491.) The court held that because a badge is not an article of clothing, the officer was not dressed in a “distinctive uniform,” as required under section 2800.1, subdivision (a)(4). (*Matthews*, at p. 491.) Similarly, in *Shakhvaladyan*, the court found insufficient evidence to support an evading conviction where the officer was not wearing a uniform and did not activate his siren, as required under section 2800.1, subdivisions (a)(2) and (a)(4). (*Shakhvaladyan, supra*, at p. 237.) Here, in contrast, the undisputed evidence showed that Officers Ramirez and Cowell were dressed in police uniforms and activated their sirens during the pursuit. As a result, *Matthews* and *Shakhvaladyan* are inapposite.

II. The Trial Court Conducted a Sufficient *Pitchess* Review and Properly Ordered Disclosure of Relevant Information

Prior to trial, Casados filed a motion seeking the disclosure of certain personnel records for Officers Ramirez and Cowell. The court found good cause to review the officers’ personnel records for complaints of excessive force and falsification of reports. On appeal, Casados asks us to review the sealed record of the *in camera* hearing to determine whether the court abused its discretion in withholding any discoverable information.

In response to Casados’s request, we have reviewed the sealed record of the *in camera Pitchess* hearing. We conclude the trial court properly conducted the hearing and appropriately exercised its discretion in determining what information to disclose. (*People v. Myles* (2012) 53 Cal.4th 1181, 1209; *People v. Mooc* (2001) 26 Cal.4th 1216, 1228, 1232.)

DISPOSITION

The judgment is affirmed.

BIGELOW, P.J.

We concur:

RUBIN, J.

DUNNING, J.*

* Judge of the Orange Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.