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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

MATTHEW FAY ECHAURY,

Defendant and Appellant.

B296610

(Los Angeles County
Super. Ct. No. GA100703)

APPEAL from a judgment of the Superior Court of Los Angeles County, Michael Villalobos, Judge. Affirmed.

Michele A. Douglass, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Matthew Fay Echaury stabbed his former girlfriend 33 times after she refused his request that she not testify against him in a domestic violence case. A jury convicted Echaury of willful, deliberate, and premeditated attempted murder (Pen. Code, §§ 187, subd. (a), 664),¹ in which he personally used a deadly weapon (§ 12022, subd. (b)(1)) and inflicted great bodily injury under circumstances involving domestic violence (§ 12022.7, subd. (e)). The jury also convicted Echaury on two counts of dissuading a witness (§ 136.1, subd. (c)(1)) and one count of mayhem (§ 203).

The trial court sentenced Echaury to life with the possibility of parole plus six years for the attempted murder. It sentenced him to four years on one of the counts of dissuading a witness. It stayed sentence on the other count of dissuading a witness and on the mayhem count pursuant to section 654. In addition to the standard fines and assessments, per stipulation the trial court ordered Echaury to pay \$10,781.80 to the California Victim Compensation Restitution Fund.

BACKGROUND

I. Prosecution Evidence

Echaury began dating Melissa M. in December 2015, while she was still in high school; Echaury was in his early 20's.

In April 2016, Echaury was driving Melissa in his car in Orange County. He became upset over a phone call Melissa received. He hit her in the face with his fist and took away her phone. He lost control of his car and hit another vehicle, causing

¹ All further statutory references are to the Penal Code.

additional injuries to Melissa. The police responded to the scene of the accident, and Melissa told them what had happened.

In October 2016, when Melissa tried to leave Echaury's home Echaury pushed her to the ground; he hit and kicked her. Melissa managed to leave and asked a neighbor to call the police. A few days later, Melissa told the police she did not want to prosecute Echaury.

Melissa broke up with Echaury in late February 2017, although she remained in contact with him. On March 2, 2017, Melissa received a letter stating that a criminal case had been filed against Echaury in Orange County, and a restraining order had been issued; the letter told Melissa she was to have no communication with Echaury and she would have to appear in court. That afternoon, Echaury, who had also received a letter regarding the case, texted Melissa; he wanted to see the letter she had received. Melissa wanted to obey the restraining order but eventually agreed to allow Echaury to come to her house to see the letter.

At her home, Melissa showed Echaury the letter she had received. He told her to testify that he had not hit her and to try to get the restraining order lifted. Melissa told Echaury to let the court handle the matter. He became upset and began calling her names. Melissa's mother ordered Echaury out of the house. Echaury asked Melissa to come with him to talk. She agreed in order to get him out of the house.

Echaury continued to tell Melissa to testify that he had not hit her and to get the restraining order lifted. Melissa again told him to leave her alone and let the court handle the matter. As she turned to go back to her house, Melissa felt Echaury hit her on the back of the head. Melissa started to hit back and then

realized she “was all wet and covered in blood.” She was hitting and kicking Echaury, while he continued stabbing her in the head, neck, and back. Melissa recognized the knife that Echaury used to stab her as one he kept in a box in his closet; she had never seen him carry it on his person.

Melissa ran to a neighbor’s house and banged on the door to get help, but no one answered. Echaury followed her, grabbed her by the hair and threw her to the ground. He got on top of her and continued stabbing her. He then got up and began to walk away. However, he returned and then stabbed her in the head and face. Echaury said nothing while he was stabbing Melissa; Melissa was screaming.²

Melissa’s mother came out of her house, and Echaury ran away. Melissa got up and ran to her mother. Some people came over to help stop the bleeding, and someone called 911. Sheriff’s deputies arrived at the scene, as did an ambulance. Melissa was taken to the hospital.

Melissa suffered 33 stab wounds, one puncturing a lung. Another severed a tendon in her arm, requiring surgical repair. As of the time of trial, Melissa had not regained full use of her hand, and she had visible scars on her face and body.

That evening, Echaury walked into a local bar and ordered a drink. The bartender noticed that Echaury had foam around his mouth and appeared to be “on something.” He refused to serve Echaury. Echaury told the bartender he was in trouble and had to get out of town; he said he had “shanked” his girlfriend with a switchblade. The bartender called the police.

² The attack was filmed by the neighbor’s security system.

The police arrived and took Echaury into custody. They then turned him over to the sheriff's department. The officers observed Echaury to be calm and cooperative; he did not appear to need to be placed on a psychiatric hold.

On March 4, 2017 while Melissa was still in the hospital, she received a call from the county jail, asking if she would accept a collect call. In place of the caller's name, she heard Echaury say, "If you say anything, I swear I will" Melissa hung up the phone. Her phone rang a second time; she did not answer it. Phone records from the county jail showed that Echaury made two phone calls that morning.

II. Defense Evidence

While Echaury was at the inmate reception center at the county jail, nurses requested that he receive a mental health examination. A psychiatric nurse met with Echaury on March 4, 2017. She noted that Echaury had received mental health treatment in 2011 and 2013 but was not prescribed medication; Echaury had been diagnosed with depression and post-traumatic stress disorder. Echaury told the nurse he had been prescribed a blue pill for anxiety and nervousness, and he occasionally used marijuana; he denied substance abuse.

A psychiatrist working at the jail evaluated Echaury on March 14. He diagnosed Echaury with substance abuse disorder based on Echaury's history of uncontrolled use of substances.³

Forensic Psychiatrist Gordon Plotkin reviewed Echaury's medical records and case documents, including interviews of

³ The psychiatrist did not note the specific substances that Echaury abused.

witnesses and Echaury's family members. He also met with Echaury and evaluated him. He concluded that Echaury suffered from substance abuse disorder. Echaury mainly abused marijuana, and secondarily alcohol. Echaury also abused cocaine, methamphetamine, ecstasy, and Xanax.

Dr. Plotkin noted that Echaury's records showed that he suffered from anxiety and depression; Xanax is an antianxiety drug which comes in various colors, including blue. Xanax can cause sedation and even blackouts, but it does not produce obvious symptoms such as slurred speech or unsteadiness, the way alcohol does. Additionally, Xanax has a very short half-life, so its effects and presence in the bloodstream would be greatly reduced within four hours.

In Dr. Plotkin's opinion, Echaury's actions at the time he stabbed Melissa and thereafter were not inconsistent with a conclusion that Echaury was under the influence of Xanax.

DISCUSSION

We appointed counsel to represent Echaury on this appeal. After review of the record, Echaury's counsel filed an opening brief requesting this court to independently review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441. On July 18, 2019, we sent a letter to Echaury, advising him that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. We received no response.

We have examined the entire record. We are satisfied that no arguable legal issues exist and that Echaury's counsel has fully complied with his responsibilities. By virtue of counsel's compliance with the *Wende* procedure and our review of the

record, we are satisfied that Echaury received adequate and effective appellate review of the order entered against him in this case. (*People v. Wende, supra*, 25 Cal.3d at p. 441; accord, *People v. Kelly* (2006) 40 Cal.4th 106, 109-110.)

DISPOSITION

The judgment is affirmed.
NOT TO BE PUBLISHED

JOHNSON, J.

We concur:

ROTHSCHILD, P. J.

BENDIX, J.