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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.

ERIC ELLIOT BARNARD,

Defendant and Appellant.

2d Crim. No. B289341
(Super. Ct. No. 18PT-00022)
(San Luis Obispo County)

Eric Elliot Barnard appeals the trial court's order determining him to be a mentally disordered offender (MDO) and committing him to the Department of Mental Health (now the California Department of State Hospitals) for treatment. (Pen. Code, § 2962 et seq.)¹ We appointed counsel to represent

¹ All statutory references are to the Penal Code. The six criteria for an MDO commitment are: the prisoner (1) has a severe mental disorder; (2) used force or violence in committing the underlying offense; (3) had a mental disorder that caused or was an aggravating factor in the commission of the underlying

appellant in this appeal. After examining the record, counsel filed an opening brief in which no issues were raised. We advised appellant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. (*People v. Taylor* (2008) 160 Cal.App.4th 304.) We received a timely supplemental brief from appellant stating, among other things, that appellant is in clinical remission, that he is not violent and has voluntarily followed his treatment plan, and that he does not pose a substantial danger to others.

Dr. Meghan Brannick, a forensic psychologist at Atascadero State Hospital (ASH), testified at the hearing before the trial court. She opined that appellant suffers from schizophrenia, which is manifested by psychotic symptoms, such as auditory hallucinations, paranoia, delusional ideation, a disorganized thought process and tangential speech.

In Dr. Brannick's opinion, appellant's severe mental disorder caused or aggravated his commitment offense, i.e., assault with force likely to produce great bodily injury, in violation of section 245, subdivision (a)(4). At the time of the offense, appellant was not taking his medication for his severe mental disorder. During the offense, appellant reacted in an excessively violent and unprovoked way, which suggested a lack of rational thought processes. In addition, two different evaluations within a month of his offense found appellant

offense; (4) the disorder is not in remission or capable of being kept in remission without treatment; (5) the prisoner was treated for the disorder for at least 90 days in the year prior to his parole or release; and (6) the prisoner poses a serious threat of physical harm to others by reason of the disorder. (§ 2962, subd. (d)(1); *People v. Clark* (2000) 82 Cal.App.4th 1072, 1075-1076.)

incompetent to stand trial, resulting in the suspension of the proceedings and hospitalization under section 1370.

Dr. Brannick testified that appellant had done quite well prior to coming to ASH and that he probably was in clinical remission since at least May 2017. She opined, however, that appellant could not be kept in remission without treatment because, during the year prior to the hearing before the Board of Parole Hearings (BPH), appellant did not voluntarily comply with his treatment plan. On November 16, 2016, the hospital had to obtain an involuntary medication order, which remained in effect until his admission to ASH. The order was necessary because of appellant's lack of insight into his need for medication.

Dr. Brannick concluded that appellant represents a substantial danger of physical harm to others due to his severe mental disorder. She based this conclusion on appellant's history of violent behavior when symptomatic and his prior hospitalization for another qualifying offense (assault with a deadly weapon). Dr. Brannick noted that appellant appears to stabilize well when taking his medication, but explained that his insight is poor. She opined that this lack of insight would limit appellant's ability to take medication effectively in the community and would place him at risk for decompensation and ongoing violent behavior.

We conclude this expert testimony constitutes substantial evidence that appellant meets the statutory criteria for commitment as an MDO. (§ 2962; *People v. Labelle* (2010) 190 Cal.App.4th 149, 151.)

The judgment is affirmed.
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PERREN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

Hernaldo J. Baltodano, Judge
Superior Court County of San Luis Obispo

Gerald J. Miller, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.