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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.

TAUNO KOIVISTO,

Defendant and Appellant.

2d Crim. No. B278706
(Super. Ct. No. 16PT-00604)
(San Luis Obispo County)

Tauno Koivisto appeals an order determining him to be a mentally disordered offender (MDO) and committing him to the Department of Mental Health for involuntary treatment. (Pen. Code, § 2962 et seq.)¹ We affirm.

FACTUAL AND PROCEDURAL HISTORY

On August 31, 1999, Koivisto pleaded guilty to burglary and robbery. The two criminal offenses concerned Koivisto approaching a man in a Los Angeles hotel parking garage, choking him, and then taking his wallet and telephone.

¹ All statutory references are to the Penal Code.

As a result of the assault, the victim received hospital examination for injuries to his head and neck. The trial court sentenced Koivisto to a 20-year prison term; he was paroled in June 2016, and then committed as an MDO.

On August 18, 2016, the Board of Parole Hearings (Board) determined that Koivisto was an MDO pursuant to the criteria of section 2962. As a condition of parole, the Board required him to accept treatment from the Department of Mental Health. On August 22, 2016, Koivisto filed a petition pursuant to section 2966, subdivision (b) to contest this decision. After the trial court advised Koivisto of his right to a jury trial, he waived that right. A court trial followed. Among other things, the parties stipulated that Koivisto met the 90-day treatment requirement of section 2962, subdivision (d).

Expert Witness Testimony

Doctor Brandi Mathews, a forensic psychologist, testified that she interviewed Koivisto on September 29, 2016, regarding the MDO requirements. She also reviewed Koivisto's state hospital medical records, his prior MDO evaluations, the probation officer's report, physicians' progress notes, psychiatric assessments, and medical records from Koivisto's incompetency commitment. Mathews concluded that Koivisto satisfied the MDO criteria of section 2962.

Specifically, Mathews opined that Koivisto suffers from the severe mental disorder of schizoaffective disorder, bipolar type, characterized by command hallucinations, paranoid symptoms, and grandiose delusions. She also concluded that his severe mental disorder was a cause of, or an aggravating factor in the commission of the underlying offenses. Mathews relied upon these factors: Koivisto's mental disorder predated the offenses;

he admitted that he suffered from auditory hallucinations at the time of the offenses and was not following his medication regime; and, he was found incompetent to stand trial.

Mathews also concluded that Koivisto's severe mental disorder was not in remission as of the date of the Board hearing and could not be kept in remission without treatment. She noted that he had not been medication-compliant during the year prior to the Board hearing and that he continued to manifest disorganized and delusional thinking. Last, she concluded that Koivisto represents a substantial danger of physical harm to others due to his severe mental disorder because he becomes threatening and violent when symptomatic and he has not complied with his medication regime.

Koivisto's Testimony

Koivisto testified and acknowledged that he suffers from schizoaffective disorder, bipolar type, and requires psychotropic medication. He admitted committing the underlying offenses, apologized for hurting the victim and taking his property, and described his actions as "a life of crime." Koivisto explained his purpose in taking the victim's property was to "get off the streets, get some food, get some clothing, get a nice bed to sleep in." After taking the victim's wallet, Koivisto used the victim's credit card to stay at a hotel for five days. Koivisto denied that he was experiencing symptoms of his severe mental disorder at the time of the underlying offenses.

Findings, Order, and Appeal

The trial court determined that Koivisto met the requirements of section 2962, subdivisions (d) and (e), beyond a reasonable doubt. In ruling, the trial judge stated that she found Mathews's testimony persuasive concerning the relationship

between Koivisto's severe mental disorder and commission of the underlying offenses.

Koivisto appeals and contends that insufficient evidence supports the trial court's finding that his severe mental disorder was a cause of or an aggravating factor in the commission of the underlying offenses. (§ 2962, subd. (b).)

DISCUSSION

Koivisto argues that the prosecution did not establish beyond a reasonable doubt a link between his severe mental disorder and the underlying offenses. He points to the lack of evidence that he engaged in unusual or disorganized conduct during the incident and asserts that he was motivated only by criminal intent. Koivisto adds that Mathews described the underlying offenses as "very goal-directed."

In reviewing the sufficiency of evidence to support an order made in MDO proceedings, we review the entire record to determine if reasonable and credible evidence supports the decision of the trier of fact. (*People v. Hannibal* (2006) 143 Cal.App.4th 1087, 1096; *People v. Clark* (2000) 82 Cal.App.4th 1072, 1082-1083.) We view the evidence and draw all reasonable inferences therefrom in favor of the order. (*Hannibal*, at p. 1096; *Clark*, at p. 1082.) We do not reweigh the evidence nor do we substitute our decision for that of the trier of fact. (*Clark*, at p. 1083.)

Sufficient evidence supports the aggravating factor or causation finding. Koivisto's severe mental disorder predated the underlying offenses, and after being charged, the trial court found him incompetent to stand trial. Koivisto also reported to other evaluators that he heard voices during commission of the crimes and that he had not been following his medication regime.

Mathews testified that Koivisto has a history of threatening and violent behavior when symptomatic. Koivisto's behavior during and after commission of the underlying offenses was unusual; he choked a stranger in a public parking garage and later used the victim's credit card to stay at a nearby upscale hotel for five days.

The trial court heard and considered Koivisto's testimony and rejected the testimony in favor of Mathew's expert opinions. We do not substitute our views for those of the trier of fact. (*People v. Pace* (1994) 27 Cal.App.4th 795, 798.)

The order is affirmed.

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GILBERT, P. J.

We concur:

YEGAN, J.

TANGEMAN, J.

Jacquelyn H. Duffy, Judge
Superior Court County of San Luis Obispo

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Appeal, for Defendant and Appellant.

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