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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

M.C.,

Defendant and Appellant.

G063281

(Super. Ct. No. 22NF2139)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County,
Scott A. Steiner, Judge. Affirmed.

Jennifer Gambale, under appointment by the Court of Appeal, for
Defendant and Appellant.

Rob Bonta, Attorney General, Lance E. Winters, Chief Assistant
Attorney General, Charles C. Ragland, Assistant Attorney General, Eric A.
Swenson, Christine Y. Friedman and Tyler L. Krentz, Deputy Attorneys
General, for Plaintiff and Respondent.

* * *

M.C. (Defendant) appeals her convictions for (1) torture of her stepdaughter (the younger stepdaughter) under Penal Code section 206,¹ and (2) felony child abuse of her biological daughter (the middle daughter) and other stepdaughter (the elder stepdaughter) under section 273a, subdivision (a). We are unpersuaded by her arguments and affirm the judgment.

For the torture count, Defendant admits that she inflicted extreme abuse on the younger stepdaughter. But she argues there is insufficient evidence that she did so for revenge, persuasion, extortion, or sadistic purpose, as required by statute. We disagree. The record shows Defendant abused the younger stepdaughter to either persuade her to change behavior and/or out of revenge for harm she believed the younger stepdaughter was causing another child of Defendant.²

As to the felony child abuse counts, we reject Defendant's assertion that there is insufficient evidence that she harmed the middle daughter and the elder stepdaughter under conditions likely to cause great bodily harm. The evidence shows Defendant was capable of extreme violence. She routinely dragged them by the hair, beat them, and inflicted other severe punishments on them. She also isolated them from outsiders, making any abuse she inflicted difficult for anyone to detect.

Defendant also claims the trial court erred by finding her voluntarily absent for one day of trial. We find no error. The court did not

¹ Undesignated statutory references are to the Penal Code.

² The briefing primarily focused on whether Defendant inflicted abuse for purposes of persuasion or revenge. Thus, we do not consider whether the evidence establishes that Defendant harmed the younger stepdaughter for sadistic purposes.

believe Defendant's claim that she was sick that day and substantial evidence supports this finding.

Finally, Defendant contends two social media posts admitted at trial were improperly authenticated. Even if that were true, Defendant has not shown that any such error was prejudicial.

FACTS AND PROCEDURAL HISTORY

I.

EVIDENCE AT TRIAL

Defendant's appeal primarily challenges the sufficiency of the evidence supporting her convictions for torture and felony child abuse. Thus, "we recite the facts in the light most favorable to the judgment, drawing all reasonable inferences in support of the conviction." (*People v. Bogle* (1995) 41 Cal.App.4th 770, 775.)

A. Defendant Meets the Father

Defendant met the father (Father) of the younger and elder stepdaughters (collectively the stepdaughters), around January 2017, when he hired Defendant to babysit the two girls. The younger stepdaughter was around five years old, and the elder stepdaughter was around seven years old. At the time, Father was married to the stepdaughters' biological mother (the former wife), but the couple divorced later that year. Father and Defendant began dating in 2017, and they later married.

Defendant had two biological children when she met Father: The oldest son, who was about 12 years old, and the middle daughter, who was about six years old. The stepdaughters and the middle daughter all got along and were close. We will refer to the stepdaughters, the middle daughter, and the oldest son as the four older children.

After they began dating, Father and Defendant had three children together: The fifth child, born in 2017, and two other children who are not relevant to this appeal.

Initially, the former wife and Father shared custody of the stepdaughters. The girls lived with Father and spent certain weekends with the former wife. The former wife and Father constantly fought during custody exchanges. Father would not answer the door at “every custody exchange,” when she came to pick up the girls. When the former wife tried to call him, he would either not answer the phone or would have Defendant tell the former wife that she could not pick up the girls. This resulted in the former wife having to call the police to enforce the custody order. She filed 35 total custody order violations.

The former wife testified that Defendant accompanied Father to the custody exchanges, and Defendant “would harass [the former wife’s] family, scream[ing] obscenities.” As a result, the former wife got a restraining order that prevented Defendant from coming within 100 yards of her or her home.

B. Defendant’s Punishment of the Four Older Children

At trial, many of the child witnesses had trouble remembering specific dates, so there were certain events that the attorneys used to track time. The first was the fifth child’s birth in December 2017. The second was when Defendant and Father moved the family from Buena Park to Anaheim in March 2020.

Prior to the fifth child’s birth, Defendant generally punished the four older children the same way. She either slapped them, hit them on their buttocks with a belt, or forced them to stand by a wall and hold their hands in the air above their heads. The elder stepdaughter testified that the slaps

hurt “quite a bit.” Defendant once slapped the elder stepdaughter so hard that her glasses flew off her face and broke. Defendant told the elder stepdaughter “not to tell anybody or the police, or [Defendant] would get taken to jail.”

Defendant’s punishments of the four older children got worse after the fifth child’s birth in December 2017. Defendant started having the four older children hold a kneeling position on the floor. She then started having the stepdaughters kneel on rice. The elder stepdaughter testified that kneeling on the rice was twice as painful as kneeling on the normal floor. While they were living in Buena Park, the two girls would have to kneel on rice from when school ended at 2:00 p.m. until their bedtime at 10:00 p.m. This happened two to three times a week.

Defendant later escalated this punishment. She started putting a circular workout weight on the floor, laying rice over it, and then forcing the stepdaughters to kneel on the center of the weight. After they moved to Anaheim, Defendant began making the stepdaughters stay in this kneeling position while holding cans in the air over their heads.³

C. The Former Wife Loses Custody

In December 2018, the stepdaughters stayed with the former wife (their biological mother) for winter break. They did not want to leave when it was time for them to return to Defendant and Father’s home. The two girls did not explain why they did not want to return, but the former wife “knew things were happening at their house.” So, she refused to return the girls to Defendant and Father. In February 2019, the police took the stepdaughters

³ None of the violence Defendant inflicted on the oldest son is pertinent to the issues in this appeal, so we do not include any of the specific acts involving him.

away from the former wife based on a court order and took them into protective custody at Orangewood Children's Home.

While the stepdaughters were at Orangewood Children's Home, a social worker investigated their abuse allegations against Defendant. The elder stepdaughter told the social worker that Defendant physically disciplined them by slapping them, pulling their hair, and forcing them to kneel on rice on top of weights. She also disclosed that Defendant had told her "she [was] a slut like her mother." Similarly, the younger stepdaughter said that Defendant made them kneel on rice and that she had been slapped.

The oldest son and the middle daughter denied the reports of abuse. Defendant also denied it. The social worker inspected Defendant and Father's home and found no safety concerns. She concluded there was insufficient information to support the abuse allegations, so the stepdaughters were returned to Defendant and Father's home.

The former wife lost custody of the stepdaughters after the police removed them from her home in February 2019. She did not see them again for three and a half years. She next saw them in August 2022, when the younger stepdaughter was hospitalized due to injuries caused by Defendant's abuse. As the former wife explained at trial, once she lost custody, Father and Defendant "moved away, blocked [her] number, [her] sister's number, [Father's] sister number, and no one was able to see them. They just kept [the two girls] from all of us."

Shortly before the COVID-19 pandemic happened, Defendant pulled the four older children out of school and began "homeschooling" them, which further isolated them. The middle daughter explained that Defendant "call[ed] it homeschooling, but she kind of just gave us a book. . . . She didn't

really tell us anything, so we weren't really [in] school[] at that point." Their "homeschooling" continued until Defendant's arrest.

D. Defendant Escalates the Younger Stepdaughter's Abuse

Prior to the fifth child's birth, Defendant and the younger stepdaughter were very close. Defendant gave the younger stepdaughter the most attention out of the four older children because she was the youngest. After the fifth child was born, though, Defendant's attention shifted from the younger stepdaughter to the fifth child.

The elder stepdaughter explained at trial that when the fifth child was around 2 or 3 years old (i.e., around 2020), Defendant "would find cuts or scrapes on [the fifth child] and [the younger stepdaughter] would take the fall for it, and that's when everything started happening." Defendant solely blamed the younger stepdaughter for the fifth child's injuries. She placed cameras around the house to ensure that the younger stepdaughter was not hurting the fifth child. According to the elder stepdaughter, this was "the beginning of when [she] started to see a change in the way [Defendant] treated [the younger stepdaughter]."

Likewise, the middle daughter testified that the relationship between Defendant and the younger stepdaughter changed after the fifth child's birth. The younger stepdaughter "started getting in trouble after [the fifth child] was born." Then, after the family moved to Anaheim, "[t]he punishments just got worse, and the [younger stepdaughter] was treated different from everybody else" because Defendant believed she was hurting the fifth child.

The middle daughter explained that Defendant sometimes justified her intense punishment of the younger stepdaughter by saying, "[The younger stepdaughter] wasn't sorry. Like, she wasn't apologizing, and

all [the younger stepdaughter] would say is ‘sorry.’ And [Defendant] just said that her apology was never sincere enough.”

Defendant inflicted several different types of abuse on the younger stepdaughter after the family moved to Anaheim. We discuss the most common types below.

1. Binding and isolation

Defendant started forcing the younger stepdaughter to sleep on the couch away from the other girls. She then began to suspect the younger stepdaughter of sneaking food at night, so she started forcing the younger stepdaughter to sleep with her hands zip tied together and her legs zip tied to a couch.

The younger stepdaughter would scream in the middle of the night when she had to use the restroom. This annoyed Defendant, so she started zip-tying the younger stepdaughter to their television stand and forcing her to sleep on the floor without a blanket or pillow. Defendant put training pads under the younger stepdaughter so she could urinate on the floor overnight. She then started forcing the younger stepdaughter to wear diapers when the training pads could not hold all her urine.

Defendant also forced the elder stepdaughter and the middle daughter to bind the younger stepdaughter at night. The elder stepdaughter testified that Defendant would force her to zip-tie the younger stepdaughter up “every night.” The elder stepdaughter complied out of fear that Defendant would hit her. Likewise, the middle daughter explained, “my mom made me do it to [the younger stepdaughter], but I couldn’t do anything. Cause if we didn’t do it, then my mom would just, like, she would punish us.”

Some mornings the younger stepdaughter’s hands would be “almost purple” due to the lack of circulation caused by bindings on her

wrists. The zip ties also caused sores and cuts on the younger stepdaughter's wrists and ankles.

Eventually, Defendant began zip-tying the younger stepdaughter's feet during the day and forcing her to stand against a wall holding up cans or weights with her hands. The middle daughter testified that the younger stepdaughter was zip tied "all times of the day. She was always zip tied."

2. Cold showers and ice baths

Defendant forced the younger stepdaughter to take cold showers whenever she wet herself at night. Either the middle daughter or the elder stepdaughter had to turn on the cold water to "the coldest that it could go." Defendant hog tied the younger stepdaughter before putting her in the cold water, or sometimes she forced the middle daughter or the elder stepdaughter to tie up the younger stepdaughter. After the younger stepdaughter was tied up, she was put in the bathtub on her stomach.

Defendant also made the younger stepdaughter take ice baths. Defendant filled a bathtub with cold water, poured a bag of ice into it (a store-bought bag about two feet in length), and then made the younger stepdaughter sit in the tub for about 10 minutes. At least once, Defendant hit the younger stepdaughter to force her into the ice water. Defendant also forced the elder stepdaughter to watch the younger stepdaughter to ensure she stayed in the water.

3. Starvation

Around the time Defendant began forcing the younger stepdaughter to sleep on the floor, she also barred her from eating with the family during meals. Instead, Defendant would tie up the younger

stepdaughter and leave her on the floor in the living room while the rest of the family ate.

The younger stepdaughter could only eat after the family had finished the meal and the kitchen had been cleaned. Most of the time, the younger stepdaughter was not allowed to feed herself. Instead, Defendant made the elder stepdaughter or the middle daughter feed her. They were only allowed to feed her a single bowl of lentils or oatmeal, which they made themselves. Defendant did not allow the younger stepdaughter any other food, even if she was still hungry after eating her bowl. At first, Defendant allowed the younger stepdaughter to be fed twice a day, but she eventually restricted it to once per day. The middle daughter testified that the starvation occurred “for a long time.”

4. Beatings and related punishments

Defendant often hit the younger stepdaughter with an open hand, a closed fist, and a sandal, leaving bruises. Sometimes Defendant hit the younger stepdaughter while she was doing the kneeling punishment. The elder stepdaughter explained that Defendant’s beating of the younger stepdaughter got worse over time. Among other things, Defendant started hitting the younger stepdaughter harder. For example, Defendant bought a footlong leather paddle in Mexico. She beat the younger stepdaughter all over her body with the paddle, including her face.

A CAST interview of the fifth child was introduced at trial.⁴ The fifth child told the interviewer that Defendant hit the younger stepdaughter “very, very hard [so] that blood comes out of her” mouth and nose. The fifth child also stated that the younger stepdaughter stayed home and did not

⁴ Cast is an acronym for Child Abuse Services Team. (See, e.g., *People v. Eccleston* (2001) 89 Cal.App.4th 436, 440.)

come to the playground with the family because “she got lots of cuts on her. Like lots [of] them everywhere around her.”

At least once, Defendant held the younger stepdaughter’s hand under hot water and continued to hold it there after the younger stepdaughter said it hurt. The hot water burned the younger stepdaughter’s skin, causing it to blister.

Defendant also punished the younger stepdaughter with habanero peppers while forcing her to kneel with her hands tied behind her back. Not only did Defendant force the younger stepdaughter to eat the spicy peppers, she would also “cut [a pepper] open . . . put her finger inside, and . . . put [her finger] in [the younger stepdaughter’s] eyes.” The younger stepdaughter’s eyes would burn, and she would be unable to open them. Defendant also put a habanero pepper in the younger stepdaughter’s vagina at least once.

E. The Younger Stepdaughter’s Hospitalization

The younger stepdaughter was admitted to the hospital on August 24, 2022, due to injuries inflicted by Defendant.

In the months leading up to the hospitalization, the elder stepdaughter testified that Defendant was putting the younger stepdaughter in punishment “all day” nearly “every day.” In addition to the punishments above, Defendant intensified the younger stepdaughter’s kneeling punishments. Instead of rice, Defendant started forcing her kneel on soup cans while holding more cans in the air. The younger stepdaughter had to hold this position all day. If she fell off the cans, Defendant “hit her, like a lot” with either the leather paddle or a leather sandal.

Defendant then intensified the kneeling punishment even further. She started blindfolding the younger stepdaughter and forcing her to

put her chin on cans of tuna while holding the kneeling position. Defendant would have the younger stepdaughter hogtied and “she would be . . . with cans under her chin and cans under both of her knees. She had to stay like that.” At first, Defendant put two tuna cans under the younger stepdaughter’s chin, but she began adding more cans until the younger stepdaughter’s head was higher than the rest of her body. The younger stepdaughter was not permitted to rest her stomach on the floor, so all her weight was distributed between her knees and chin.

At one point, the younger stepdaughter was isolated in Defendant’s bedroom. Defendant kept the younger stepdaughter awake for three days without food. The middle daughter stated that “[the younger stepdaughter] had stayed on the cans for three days straight.” During this three-day period, the middle daughter peeked into the bedroom and saw Defendant beating the younger stepdaughter’s vagina with the leather paddle. The middle daughter recalled that Defendant was “stabbing it into [the younger stepdaughter’s] private part.” During this beating, the younger stepdaughter was naked and kneeling on the soup cans. Her ankles and wrists were bound and tied to each other.

In the week before her hospitalization, the younger stepdaughter was barely able to stand and was unable to walk by herself. Defendant hit her when she could not stand.

On the day of her hospitalization, Defendant accused the younger stepdaughter of stomping. The younger stepdaughter’s hands and feet were zip tied together behind her while Defendant repeatedly threw her on the floor. The last thing the younger stepdaughter remembered before waking up in the hospital was Defendant throwing her into the corner of a cabinet. After the younger stepdaughter lost consciousness, Father and the oldest son took

her to the hospital. Defendant told the other children to lie and say the younger stepdaughter had been hurting herself.

The younger stepdaughter was in critical condition when she reached the emergency room. She was unable to move her body, and “her eyes were barely awake.” She was taking long, shallow breaths, typically exhibited by patients close to death. The nurses activated a tier-one trauma, the highest level, which is reserved for patients with life-threatening injuries.

One emergency room nurse thought the younger stepdaughter “might be a terminally ill patient.” The nurse recalled that “her body looked extremely malnourished.” Another nurse said, “she had no meat on her bones at all,” and she looked like “an end-stage cancer patient. Her cheeks were hollowed. Her eyes were sunk in. . . . I couldn’t see really any body fat on her. Her legs were swollen.”

A pediatrician examined the younger stepdaughter and found her condition was life threatening. Her ribs and neck had multiple fractures. She had “wounds on her head, a deep wound on her nose, her chin, her neck, both her shoulders, her wrists, her ankles, her knees. She had multiple bruises. [¶] She also had . . . an injury to her chest. She had bruises on her back, on her flank, legs, her arms.” She also lacked muscle mass and was wasting away. Her knees had septic arthritis. They were also swollen, abscessed, and filled with fluid and pus.

The younger stepdaughter also had multiple internal injuries. Her brain had atrophied, likely due to months of malnutrition. Because of malnutrition, her immune system was not working properly, and she had gastrointestinal and endocrine problems, including abnormal kidney function. Her white blood cell, red blood cell, and platelet counts were low. She was in septic shock, meaning her body was “overwhelmed with an

infection.” The infection had spread to her heart, causing her heart to function below normal.

The younger stepdaughter spent four months in the hospital. She went through 16 or 17 surgeries during her stay, including several on her knees. One of her surgeons testified that he had treated child abuse cases in his 15 years of practice, and this was the most excessive case he had seen.

Due to Defendant’s abuse, the younger stepdaughter has permanent scarring to both wrists, her ankle, her nose, her chin, and her knees. The younger stepdaughter testified that although her knees felt good, she sometimes had a sharp pain in her left leg. Though she had to relearn how to walk, the younger stepdaughter stated that she was starting to run and looked forward to “[l]earning how to swim again.”

II.

VERDICT AND SENTENCING

The police arrested Defendant the night of the younger stepdaughter’s hospitalization. She was charged with one count of torture as to the younger stepdaughter (§ 206), two counts of felony child abuse as to the elder stepdaughter and the middle daughter, respectively (§ 273a, subd. (a)), and one count of misdemeanor assault as to the oldest son (§ 273a, subd. (b)).⁵ A jury convicted Defendant on all counts. As to the torture count, the jury also found true that Defendant personally inflicted great bodily injury on the younger stepdaughter. (§ 12022.7, subd. (a).)

The court sentenced Defendant to a total term of seven years and 10 months to life in prison with the possibility of parole. Her sentence was

⁵ Father was charged with the same counts as Defendant. He was tried separately.

comprised of life in prison with the possibility of parole for the torture count and consecutive terms of (1) six years for the first child abuse count, (2) one year and four months for the second child abuse count, and (3) six months for the assault count. The court stayed the punishment for the bodily injury enhancement.

On appeal, Defendant challenges her convictions for torture and both counts of child abuse. She makes several arguments. First, there was insufficient evidence to support her torture conviction. Second, there was insufficient evidence to support either of her felony child abuse convictions. Third, the court violated her constitutional right to be present at trial. Fourth, the court erred by admitting two social media posts into evidence. As explained below, her arguments are unpersuasive.

DISCUSSION

I.

THE TORTURE CONVICTION

Defendant concedes she abused the younger stepdaughter but claims there is insufficient evidence showing she had the requisite mental state to commit torture. However, the record contains substantial evidence showing that Defendant inflicted injury on the younger stepdaughter for purposes of persuasion or revenge.

A. Background Law

“Torture can be committed either by a single act or by a course of conduct.” (*People v. Mejia* (2017) 9 Cal.App.5th 1036, 1043.) Under section 206, the crime of torture consists of “two elements: (1) a person inflicted great bodily injury upon the person of another, and (2) the person inflicting the injury did so with specific intent to cause cruel and extreme pain and

suffering for the purpose of revenge, extortion, persuasion, or for any sadistic purpose.” (*People v. Baker* (2002) 98 Cal.App.4th 1217, 1223; § 206.)

Here, the first element is undisputed. Defendant concedes she inflicted great bodily injury on the younger stepdaughter.⁶ As to the second element, Defendant does not contest that she injured the younger stepdaughter with the intent to cause cruel and extreme pain and suffering. But she claims there is insufficient evidence that she inflicted such injuries for “revenge, extortion, persuasion, or for any sadistic purpose.” (See § 206.)

“When evaluating a challenge to the sufficiency of the evidence,” a reviewing court’s role is limited. (*People v. Flores, supra*, 2 Cal.App.5th at p. 871 (*Flores*).) It “view[s] the facts in the light most favorable to the [prevailing party], resolving all conflicts in [its] favor and accepting all reasonable inferences deduced from the evidence.” (*People v. Shrier* (2010) 190 Cal.App.4th 400, 412.) “[A]n appellate court may not substitute its judgment for that of the jury. If the circumstances reasonably justify the jury’s findings, the reviewing court may not reverse the judgment merely because it believes that the circumstances might also support a contrary finding.’ [Citation.] We do not reweigh the evidence or resolve conflicts in the testimony when determining its legal sufficiency.” (*People v. Garcia* (2020) 46 Cal.App.5th 123, 144–145.)

Further, the trial court’s judgment is presumed correct. ““[A]ll intendments and presumptions are indulged to support it on matters as to

⁶ Though the first element is undisputed, we note that torture includes injuries resulting from deprivation, such as deliberate starvation. (*People v. Jennings* (2010) 50 Cal.4th 616, 684–685; *People v. Flores* (2016) 2 Cal.App.5th 855, 871–872.)

which the record is silent, and error must be affirmatively shown.”” (*People v. Giordano* (2007) 42 Cal.4th 644, 666.)

B. Defendant's Intent

“Torture focuses upon the mental state of the perpetrator. [Citation.] In this respect, revenge, extortion, and persuasion are self-explanatory. Sadistic purpose [means] . . . “the infliction of pain on another person for the purpose of experiencing pleasure.”” [Citation.] While sadistic pleasure is often sexual, the statute does not require a sexual element.”

(*People v. Massie* (2006) 142 Cal.App.4th 365, 371.)

1. Persuasion

In *Flores*, the defendant and his girlfriend were convicted of torture for disciplining the defendant’s children with starvation, beatings, and extreme exercise over a two-year period. (*Flores, supra*, 2 Cal.App.5th at pp. 862–866.) On appeal, the defendant argued there was no evidence that they had engaged in such acts “for the purpose of revenge, extortion, persuasion, or for any sadistic purpose.”” (*Id.* at p. 872.) The court disagreed, finding that the evidence of severe discipline showed they had injured the children “for the purpose of persuasion.”” (*Ibid.*) It explained, “inflicting cruel and extreme pain and suffering to discipline children appears to be encompassed within the torture statute [citation], and there is evidence from which a jury could have concluded [the girlfriend] employed beatings and food deprivation to discipline [the defendant’s] children, and [the defendant] knew of and acquiesced to [the girlfriend’s] methods.”” (*Ibid.*)

Like *Flores*, there was substantial evidence that Defendant’s brutal punishments of the younger stepdaughter were done for disciplinary purposes. Defendant also concedes this point. Thus, the jury could reasonably conclude that Defendant inflicted injury on the younger stepdaughter for

purposes of persuasion. (*Flores, supra*, 2 Cal.App.5th at p. 872.) Indeed, Defendant's conduct appears to have been more severe than the discipline at issue in *Flores*. Not only did Defendant constantly beat and starve the younger stepdaughter, but she made her take ice baths, forced her to kneel on cans all day while holding cans in the air, bound her with zip ties nearly all day and night, and rubbed portions of habanero peppers in her eyes.

Flores permits a general finding that Defendant's extreme and abusive discipline was done for purposes of persuasion. (*Flores, supra*, 2 Cal.App.5th at p. 872.) However, the record also contains evidence from which the jury could reasonably infer more specific acts of persuasion by Defendant. For instance, the middle daughter and the elder stepdaughter testified that Defendant punished the younger stepdaughter more severely than the other children because she believed the younger stepdaughter was hurting the fifth child. There was evidence that Defendant started zip-tying the younger stepdaughter at night because Defendant believed she was sneaking food. Defendant forced the younger stepdaughter to take cold showers when she wet herself at night. The middle daughter stated that Defendant punished the younger stepdaughter because the younger stepdaughter was not sorry for her perceived misbehavior. From this evidence, it can be reasonably inferred that Defendant inflicted severe punishments on the younger stepdaughter to persuade her to (1) stop harming the fifth child, (2) not sneak food at night, (3) hold her urine at night, and (4) show genuine remorse. (See *People v. Baker, supra*, 98 Cal.App.4th at p. 1224 [husband's act of setting wife on fire after she mentioned divorce could be interpreted as an attempt to persuade her not to divorce him].)

2. *Revenge*

A jury could also reasonably infer that Defendant's extreme discipline of the younger stepdaughter was done for revenge.

Revenge means "to inflict injury in return for." (Merriam-Webster's Dict. Online (2025) <<https://www.merriam-webster.com/dictionary/revenge>> [as of Dec. 11, 2025], archived at <https://perma.cc/35H5-TNNF>.) Multiple witnesses testified that Defendant punished the younger stepdaughter more severely than the other children because she believed the younger stepdaughter was hurting the fifth child. As such, the jury could reasonably infer that Defendant inflicted injury on the younger stepdaughter in return for the perceived harm she had caused the fifth child. (See *People v. Baker, supra*, 98 Cal.App.4th at p. 1224 [husband's act of setting wife on fire could be interpreted as revenge for her saying she would divorce him].)

In response, Defendant argues that the evidence only shows that the fifth child had cuts and scratches in 2017 and 2018. Thus, she could not have sought revenge against the younger stepdaughter from 2020 to 2022 since the fifth child suffered no harm during that period. Defendant does not explain the materiality of these dates.⁷ Regardless, we disagree with her argument.

Defendant could have begun punishing the younger stepdaughter more severely than the other children because of the perceived harm she allegedly caused the fifth child. That motive could have continued even after the fifth child stopped having cuts and scrapes. Thus, even if the relevant

⁷ From our own review of the record, it appears this argument is based on the information filed against Defendant, which alleged the torture occurred between August 2021 and August 2022.

harm to the fifth child occurred before 2020, the jury could reasonably infer that Defendant continued to inflict harsh punishments on the younger stepdaughter as revenge for past harms to the fifth child. Defendant cites no authority stating that there is a temporal requirement for revenge or requiring the prosecution to show that each punishment was directly tied to a specific harm the younger stepdaughter caused the fifth child.

Further, there is evidence that Defendant believed the younger stepdaughter was harming the fifth child after 2020. The elder stepdaughter testified that the cuts and scrapes started appearing when the fifth child was “maybe two or three years old.” The fifth child was born in December 2017. Based on the elder stepdaughter’s testimony, a jury could reasonably conclude that Defendant believed the younger stepdaughter started harming the fifth child in 2020 or 2021 and began punishing her more severely for purposes of revenge from that time until her arrest.

3. Defendant’s remaining arguments

Defendant primarily argues that her abuse of the younger stepdaughter was solely for disciplinary purposes. She asserts that “a parent who imposes corporal punishment on a child solely for the purpose of discipline cannot be guilty of torture.” Not so. As described above, *Flores* found that extreme and abusive forms of discipline, including deliberate starvation, can constitute torture under section 206. (*Flores, supra*, 2 Cal.App.5th at p. 872.)

Aside from *Flores*, other cases have affirmed torture convictions involving severe child discipline. While these cases do not expressly address whether such discipline was carried out for revenge, extortion, persuasion, or sadistic purpose, they undermine Defendant’s argument that misguided discipline is not torture. (See, e.g., *People v. Jennings, supra*, 50 Cal.4th at

pp. 685, 692 ([affirming torture conviction for defendant that disciplined child through starvation]); *People v. Mincey* (1992) 2 Cal.4th 408, 434 [rejecting the defendant's argument "that an intent to torture may not be legally found if a 'misguided attempt at discipline' played any part in the process that ultimately led to the victim's death"]; *People v. Assad* (2010) 189 Cal.App.4th 187, 191–192, 196–197 [affirming torture conviction for defendant that disciplined son by binding him to a bed and beating him with a garden stake and hose].)

We are also unpersuaded by Defendant's citation to *People v. Steger* (1976) 16 Cal.3d 539 (*Steger*). That case involved a murder by means of torture (§ 189), which "is murder committed with a willful, deliberate, and premeditated intent to inflict extreme and prolonged pain." (*Id.* at p. 546.) In *Steger*, the Supreme Court found insufficient evidence that the "defendant murdered her stepchild with a willful, deliberate, and premeditated intent to inflict extreme and prolonged pain." (*Id.* at p. 549.) Rather, the evidence only showed that the defendant was "a tormented woman, continually frustrated by her inability to control her stepchild's behavior. The beatings were a misguided, irrational and totally unjustifiable attempt at discipline; but they were not in a criminal sense willful, deliberate, or premeditated." (*Id.* at p. 548.)

Defendant argues that, like *Steger*, she was a frustrated stepparent who was simply trying to discipline the younger stepdaughter. But *Steger* is inapposite. It involved a different crime with a different intent requirement. Unlike murder by means of torture, section 206 torture "does not require that the defendant act with premeditation or deliberation or that the defendant have an intent to inflict *prolonged* pain." (*People v. Pre* (2004) 117 Cal.App.4th 413, 420.) Thus, unlike *Steger*, the prosecution in this case

did not have to show that Defendant's abuse of the younger stepdaughter was willful, deliberate, or premeditated. (*Ibid.*)

Further, *Steger* recognized that “[i]n appropriate circumstances a child batterer can be found to be a torturer.” (*Steger, supra*, 16 Cal.3d at p. 549.) This case involves such circumstances. Unlike *Steger*, there is substantial evidence that Defendant tortured the younger stepdaughter under the relevant statute. Though Defendant points to other evidence allegedly showing her lack of guilt, we do not reweigh the evidence on appeal. (*People v. Garcia, supra*, 46 Cal.App.5th at pp. 144–145.)

II.

THE FELONY CHILD ABUSE CONVICTIONS

Next, Defendant claims there is insufficient evidence supporting her felony child abuse convictions involving the elder stepdaughter and the middle daughter. Specifically, she contends there is no evidence she hurt them under conditions or circumstances likely to produce great bodily harm. We disagree. There is evidence that Defendant had a violent temperament, routinely beat the elder stepdaughter and the middle daughter, and isolated them from outsiders to make their abuse difficult to detect.

A. Applicable Law

Section 273a, subdivision (a) is ““intended to protect a child from an abusive situation in which the probability of serious injury is great.””” (*People v. Valdez* (2002) 27 Cal.4th 778, 784.) The prosecution must show the defendant “willfully cause[d] or permit[ted] any child to suffer, or inflict[ed] thereon unjustifiable physical pain or mental suffering” “under circumstances or conditions *likely to produce great bodily harm or death.*” (§ 273a, subd. (a), italics added.)

Defendant's argument focuses on the italicized portion of the statute. “[L]ikely’ . . . means a substantial danger, i.e., a serious and well-founded risk, of great bodily harm or death.” (*People v. Wilson* (2006) 138 Cal.App.4th 1197, 1204.) “Great bodily harm refers to significant or substantial injury . . .’ [Citation.] However, there is no requirement that the victim suffer great bodily harm.” (*People v. Cortes* (1999) 71 Cal.App.4th 62, 80.) Likewise, the statute “does not require force likely to produce great bodily injury. It requires the willful infliction of injury *under circumstances and conditions likely to produce great bodily injury*. While force may be one circumstance or condition, it is not the only circumstance or condition that may support a conviction for felony child abuse.” (*People v. Clark* (2011) 201 Cal.App.4th 235, 243.)

“Whether the injury is inflicted under circumstances or conditions likely to produce great bodily injury is a question for the trier of fact. [Citation.] [The] circumstances and conditions a reasonable jury could consider include, but are not limited to, (1) the characteristics of the victim and the defendant, (2) the characteristics of the location where the abuse took place, (3) the potential response or resistance by the victim to the abuse, (4) any injuries actually inflicted, (5) any pain sustained by the victim, and (6) the nature of and amount of force used by the defendant.” (*People v. Clark, supra*, 201 Cal.App.4th at p. 245, fn. omitted.)

B. Evidence of Abuse

Defendant asserts there is no evidence she physically abused either the middle daughter or the elder stepdaughter between August 24, 2021, and August 24, 2022, as charged. While she appears to concede that she forced them to help punish the younger stepdaughter during that period, she

contends those acts were not likely to cause either girl great bodily harm. The record contradicts her argument.

1. *Severity and frequency of abuse*

We are unpersuaded by Defendant's argument that there is no evidence that she physically abused the middle daughter or the elder stepdaughter between August 2021 to August 2022. The record shows Defendant had a long history of physical abuse against them. It occurred while they lived in Buena Park and escalated when they moved to Anaheim in March 2020. The record also indicates that it was constant. Thus, it can be reasonably inferred that Defendant's abuse of the middle daughter and the elder stepdaughter continued until her arrest in August 2022.

For example, there was evidence that Defendant routinely beat the middle daughter and the elder stepdaughter when they were living in Anaheim (i.e., from March 2020 until Defendant's arrest). The middle daughter testified that Defendant regularly dragged her and the elder stepdaughter by their hair and hit them: Defendant "would pull our hair *all the time* . . . [Defendant] would . . . drag us by our hair, and she would . . . sock us, like punch us or slap us while she was doing it." (Italics added.) She also clarified that this punishment occurred in Buena Park and intensified when they moved to Anaheim: "She would still do it [in Buena Park] but just not as bad. . . . [I]t got really bad in [Anaheim]. [W]e had never been hit like that before." The middle daughter also testified that Defendant beat her several times with the same leather paddle she used on the younger stepdaughter. Indeed, the middle daughter stated that Defendant bought the paddle in Mexico specifically to "his us with." From this evidence, a jury could reasonably infer that Defendant continued to beat the elder stepdaughter and the middle daughter from August 2021 until her arrest.

Similarly, the elder stepdaughter testified that Defendant hit them as punishment. Sometimes Defendant even hit the elder stepdaughter while she forced her to kneel on rice. The elder stepdaughter also testified that Defendant forced her to tie up the younger stepdaughter “every night”, and if she did not, she “would get hit.” The middle daughter similarly stated that Defendant would punish them if they refused to tie up the younger stepdaughter. Defendant began zip-tying the younger stepdaughter around February 2021 and continued to do so until her arrest. Thus, the threat of being beaten by Defendant existed nearly every night during and after August 2021.

Finally, both the elder stepdaughter and the middle daughter had to hold Defendant’s kneeling punishments. The elder stepdaughter testified that “everybody [was] made to kneel.” Specifically, the elder stepdaughter stated that she had to kneel on rice while they were living in Buena Park. Defendant then started making her hold cans in the air when they moved to Anaheim. There was testimony that these kneeling punishments lasted for hours. There is no clear evidence that these punishments stopped prior to August 2021. Thus, a jury could reasonably infer that these kneeling punishments continued during and after August 2021.⁸

⁸ The elder stepdaughter testified that at some point “it was just [the younger stepdaughter]” being forced to kneel. But she did not state when this occurred. Further, there was testimony that the elder stepdaughter was still being made to kneel on rice and hold cans in the air after the family moved to Anaheim. The jury could reasonably infer that the elder stepdaughter was forced to perform the kneeling punishments during and after August 2021.

In assessing whether the above punishments were performed under conditions likely to produce great bodily harm, we find instructive *People v. Jaramillo* (1979) 98 Cal.App.3d 830 (*Jaramillo*). In *Jaramillo*, a mother hit her daughters with a 20-inch wooden stick several times on the hands, arms, and buttocks in the morning and then later again that afternoon. (*Id.* at pp. 833–835.) One daughter was six years old. (*Id.* at p. 835.) The other daughter’s age is unclear, but it appears she was in elementary school. (*Id.* at p. 834.) Under these facts, the court found defendant’s “actions were committed under conditions likely to produce great bodily harm.” (*Id.* at p. 835.)

The facts here are comparable to *Jaramillo*. The middle daughter and the elder stepdaughter were older than the victims in *Jaramillo*.⁹ But the abuse in *Jaramillo* occurred in a single day. Here, the evidence indicates Defendant dragged the middle daughter and the elder stepdaughter by their hair and forcefully hit them “all the time” after they moved to Anaheim. Also, like the stick in *Jaramillo*, Defendant hit the middle daughter on several occasions with a footlong leather paddle. Finally, the evidence indicates that Defendant forced the middle daughter and the elder stepdaughter to hold a kneeling position as punishment. And at least the elder stepdaughter was forced to kneel on rice while holding cans. Based on the severe injuries to the younger stepdaughter’s knees, it can be reasonably inferred that these kneeling punishments carried a serious risk of causing great bodily harm.

⁹ In 2017, the middle daughter and the elder stepdaughter were six and seven years old. Thus, the middle daughter would have been about 10 to 11 years old, and the elder stepdaughter would have been around 11 to 12 years old when the relevant abuse occurred in 2021 and 2022.

2. Defendant's characteristics and the location of the abuse

Along with the above evidence concerning the severity and frequency of Defendant's punishments, we may also consider the characteristics of the location where the abuse occurred and Defendant's characteristics. (*People v. Clark, supra*, 201 Cal.App.4th at p. 245.) Here, Defendant's violent temperament and the isolation she imposed on her family created conditions in which her abuse of the elder stepdaughter and the middle daughter was likely to cause great bodily harm.

The characteristics of the location of the abuse are particularly compelling. Particularly, we find significant the lengths to which Defendant isolated her children by removing them from school and cutting them off from family members. This isolation made it difficult for outsiders to detect the harm Defendant inflicted on the middle daughter or the elder stepdaughter by cutting them off from potential help. It can be reasonably inferred that this isolation allowed Defendant to escalate her abuse of both girls with minimal risk of detection. The isolation Defendant imposed on the middle daughter and the younger stepdaughter greatly increased their risk of suffering serious bodily harm.

For example, Defendant began "homeschooling" the four older children around early 2020. The evidence shows that Defendant did not remove them from school because of scholastic concerns. As the middle daughter explained, Defendant made no effort to teach them anything. And, notably, evidence in the record indicates that Defendant's violence against

the four older children escalated around the time Defendant removed them from school.¹⁰

Similarly, the evidence shows that Defendant isolated her immediate family from other relatives. The former wife testified that after she lost custody of the stepdaughters, Defendant and Father “moved away, blocked [her] number, [her] sister’s number, [Father’s] sister number, and no one was able to see them. They just kept [the two girls] from all of us.” Defendant’s brother similarly testified that his family used to see Father and Defendant’s family about a few times a month. However, from January to August 2022, he only saw Defendant’s family once and only communicated with them over the phone.

Further, Defendant knew she could be arrested if any of the children told others about the abuse. Defendant told the elder stepdaughter not to tell anyone about her punishments or Defendant would go to jail. From this and the above evidence, it can be reasonably inferred that Defendant removed the four older children from school and cut them off from other family members to make it harder for anyone to detect her abuse.

As to Defendant’s characteristics, the record shows she was capable of extreme violence and physically harmed nearly every child in her household. We need not revisit the evidence of her abuse of the four older children. But we note that the fifth child reported in her CAST interview that Defendant also hit her “hard” on her bottom with a belt. The evidence in the record also shows that Defendant escalated her abuse over time.

¹⁰ Specifically, there was testimony that Defendant’s violence and aggression against the four older children increased when they moved to Anaheim. The family moved to Anaheim in March 2020, around the same time they started “homeschooling.”

In sum, a jury could reasonably find that the evidence concerning Defendant's abuse of the middle daughter and the eldest stepdaughter, her capacity for violence, and her family's isolation created a situation in which great bodily harm to the middle daughter and the elder stepdaughter was likely to occur.

C. Juror Questions

Defendant also cites juror questions about the instructions for section 273a, subdivision (a), to argue that the jury may not have believed she inflicted pain or suffering under conditions likely to cause great bodily harm. But evidence of a juror's understanding of instructions is not admissible to impeach a verdict. (*Guernsey v. City of Salinas* (2018) 30 Cal.App.5th 269, 283; *Bell v. Bayerische Motoren Werke Aktiengesellschaft* (2010) 181 Cal.App.4th 1108, 1124–1125.)

Defendant also suggests that the trial court's answer to a juror question on the felony child abuse instruction may have been misleading. But she makes no claim of instructional or legal error, and any suggestion that the jury was misled is speculative. Thus, even if we considered the juror questions, they would be insufficient to overcome the presumption of the judgment's correctness. (*People v. Giordano, supra*, 42 Cal.4th at p. 666.)

III.

CONSTITUTIONAL RIGHT TO BE PRESENT

Defendant claims the court erred by finding her voluntarily absent for one day of trial under section 1043, subdivision (b)(2). We find no error.

A. Applicable Law

"A criminal defendant's right to be present at trial is protected under both the federal and state Constitutions." (*People v. Gutierrez* (2003) 29

Cal.4th 1196, 1202.) “The right to presence ‘is not absolute,’ and it may be explicitly or implicitly waived.” (*People v. Hersom* (2024) 105 Cal.App.5th 497, 509 (*Hersom*)).

“Section 1043, subdivision (b)(2), permits a court in a noncapital felony case to proceed with trial in a defendant’s absence, if the defendant is present when the trial begins, but later voluntarily absents [herself].” (*People v. Concepcion* (2008) 45 Cal.4th 77, 83.) It was “[u]nquestionably . . . designed to prevent the defendant from intentionally frustrating the orderly processes of his trial by voluntarily absenting [herself].” (*Ibid.*) Under the statute, a court may find the defendant voluntarily absent without written or oral waiver “if other evidence indicates the defendant has chosen to be absent voluntarily.” (*Hersom, supra*, 105 Cal.App.5th at pp. 509–510.)

B. Background Facts

On the first day of trial, September 18, 2023, Defendant refused transportation to court, claiming she did not feel well. A nurse examined her and concluded she was healthy enough to attend. The court spoke to Defendant over video conference. It explained her constitutional right to be present but stated that she did not have to attend if she wished. Defendant replied that she “want[ed] to be there” but “had a really bad night,” “didn’t get any sleep,” and “felt terrible.” The court acknowledged her situation and chose not to proceed with trial that day. But it asked her to attend the next day. It explained that “if you refuse to come to court again . . . I’m not gonna have any choice but to just do the trial without you . . . Does that sound fair?” Defendant responded, “Yes, sir.”

Defendant attended trial the next day and told the court she would be present for the entire trial. The court again warned Defendant that

if she refused to come to court again, “we’ll have to just keep going without you so I need you here.” Defendant said she understood.

A few days later, Defendant missed the start of trial because she claimed to have torn her civilian clothes for trial while in jail. This delayed the start of trial for two hours while her counsel sent her new clothes. When the trial court asked Defendant why she tore her clothes, “she said they tore themselves with a smirk on her face.” The court noted that the smirk “was consistent with a falsehood.” The court again warned Defendant “that if she continued not to come to court, [it] would deem her to have voluntarily absented herself,” and trial would proceed without her. Defendant again stated she understood.

Then, on September 26, 2023, Defendant again refused transportation to court due to a claimed illness. A nurse examined her and cleared her to attend trial, but she still refused to go. When the court contacted her in jail via video conference, Defendant stated she wanted to be present for trial but felt sick. The court noted that she did not appear to be sick. It told Defendant she could either come to trial in one hour or it would continue trial without her. Defendant stated, “I will be there, sir.” The court then arranged a special transport for her. The court delayed trial for about an hour and a half while it waited for Defendant to arrive.

However, Defendant refused to be transported again. The trial court attempted to contact her over video conference so she could explain her actions. It was unable to reach her.

The trial court then found Defendant voluntarily absent under section 1043, subdivision (b)(2). In making this finding, the court stated that it did not “believe for one second that [Defendant was] sick, either on the prior occasion or [that day].” Nor did it believe Defendant’s prior claim that

her clothes had torn themselves. Rather, “this is a clear case of [Defendant] acting under the impression she can control these proceedings.”

Defendant’s counsel objected to the trial court’s voluntary absence finding but stated he was ready to proceed. Before continuing trial, the court instructed the jury not to speculate about or draw any inferences from Defendant’s absence.

Defendant attended the next few days of trial. However, she was hospitalized from October 3 through 6, 2023, and trial was suspended during that time. Her physician testified about her hospitalization on October 5. Defendant had been admitted for “a seizure-like event” and had suffered a second seizure-like event at the hospital. She had been placed on antiseizure medications, and the hospital was currently waiting for test results.

After Defendant’s hospital discharge on October 6, trial resumed on October 9, 2023. Defendant was present when it resumed and was present for the rest of trial.

Defendant asserts the trial court erred by finding her voluntarily absent on September 26, 2023.

C. Defendant’s Absence

Courts look at a totality of the facts to determine whether a defendant is voluntarily absent. (*Hersom, supra*, 105 Cal.App.5th at p. 510.) A defendant is voluntarily absent if he or she (1) is aware of the proceedings, (2) is aware of his or her right to be present and obligation to attend, and (3) has no sound reason for remaining away. (*Ibid.*) The first two elements appear to be undisputed, and we find substantial evidence supports the third element. (See *ibid.* [applying substantial evidence standard].)

A week prior to September 26, Defendant refused transportation to trial due to a purported illness, even though a nurse had cleared her to

attend. A few days later, Defendant claimed she was late to trial because her clothes “tore themselves,” which the trial court did not believe due to her facial expressions when addressing the court. Finally, on September 26, Defendant again refused transportation to trial based on claimed illness even though a nurse had cleared her to attend. Nor did she appear sick to the court. Then, after accepting the court’s offer to delay trial by an hour so she could be transported to court, she again refused transportation. Based on these facts, the court could reasonably conclude Defendant was feigning illness (or the severity of her illness), on September 26, and had no sound reason not to attend trial. (See *In re Michael G.* (2012) 203 Cal.App.4th 580, 589 [reviewing court will not overturn the lower court’s credibility determinations when reviewing for substantial evidence].)

In response, Defendant contends that her illness on September 26 was valid based on her history of seizures prior to her arrest and her hospitalization from October 3 through 6. However, this evidence does not definitively show that Defendant suffered from a seizure or related symptoms on September 26 that prevented her from attending trial. Indeed, she attended trial without issue on September 25, 27, and 28 and October 2. Further, a nurse examined her and cleared her to attend trial on September 26. This evidence, viewed in the light most favorable to the respondent, supports the trial court’s finding that Defendant did not have an illness preventing her from attending trial on September 26 and, therefore, had no valid reason for missing court.

IV.

EVIDENCE ADMITTED AT TRIAL

Finally, Defendant challenges the admissibility of certain evidence introduced at trial. We find that any error was not prejudicial.

A. Background Facts

The police seized Defendant's phone after her arrest. They were able to extract two images uploaded from her phone to a social media account in May 2019 (the images). The images were admitted at trial.

The first image stated, "Manipulation, mental abuse, lies, and unnecessary pain. Hate towards the good parent and stepparent. Human rights ignored. Missed time making memories is all caused by a vengeful parent who hates the other parent and stepparent more than they love their own child. Strong stepmom awareness campaign."

The second image had similar text: "Baby momma, a female who is mad at the fact that she can't have you back, so she becomes spiteful, jealous and crazy. She tries to make your life and all relationships a living hell and will do anything she can to make your relationship with the [children] . . . difficult every chance she gets. A baby momma does not care if she hurts the [children] in the process of hurting you. Mother of your child is a woman"— [¶] . . . 'that knows the relationship you had is over and there's no hard feelings. She works with you, compromises, and stays consistent so that both of you have a lasting and healthy relationship with the [children]. A real mother will get along with . . . you for the sake of the [children].'"

Defendant claims the images were inadmissible because they were not properly authenticated, but she has not shown that any such error was prejudicial.

B. Prejudice

For alleged evidentiary errors, "prejudice must be shown and reversal is not required unless there is a reasonable probability that an outcome more favorable to the defendant would have resulted." (*People v. Clair* (1992) 2 Cal.4th 629, 668; *People v. Cooper* (1991) 53 Cal.3d 771, 836.)

Defendant appears to argue that the images are prejudicial because they show she disliked the former wife (the stepdaughters' biological mother), which suggests she abused the younger stepdaughter for revenge against the former wife and, as such, had the intent required for torture. She claims there is a reasonable probability she would not have been convicted of torture had the images been excluded.

We are not persuaded. As set forth above, there was strong evidence that Defendant abused the younger stepdaughter to persuade her to change certain behaviors or for revenge for the perceived harms the younger stepdaughter caused the fifth child. The exclusion of the images would not have affected these theories.

Besides, there was already strong evidence in the record that Defendant disliked the former wife. Defendant told the elder stepdaughter that “she [was] a slut like her mother,” i.e., the former wife. The former wife got a restraining order against Defendant because Defendant would “harass [the former wife’s] family” and “scream obscenities” at them during custody exchanges. During custody exchanges, Defendant would tell the former wife over the phone that she could not pick up the stepdaughters or that they did not want to go with her. Finally, after the former wife lost custody of the stepdaughters in 2019, Father and Defendant moved away, blocked her number, and kept the former wife from seeing her daughters for three and a half years. In short, the images only provided duplicative evidence of Defendant’s dislike of the former wife.

Further, as to showing Defendant’s dislike of the former wife, the images are far less direct and weaker evidence than the evidence discussed above. They appear to be generic social media posts that neither identify the former wife by name nor show explicit animosity toward her. Although one

could infer that the person who uploaded the images to social media disliked her stepchildren's biological mother, that inference is far weaker than the above evidence.

For the reasons above, the images have minimal value in showing Defendant's intent as to the torture charge. Thus, it is not reasonably probable that their exclusion would have affected the verdict. (*People v. Clair, supra*, 2 Cal.4th at p. 668; *People v. Cooper, supra*, 53 Cal.3d at p. 836.)

DISPOSITION

The judgment is affirmed.

MOORE, J.

WE CONCUR:

MOTOIKE, ACTING P. J.

BANCROFT, J.*

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