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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

A133469

v.

**(Contra Costa County
Super. Ct. No. 51102979)**

MARK ALLEN MELTHRATTER,

Defendant and Appellant.

_____/

Appellant Mark Allen Melthatter shot Nathan Graunstadt several times with a semiautomatic pistol. At trial, appellant claimed he shot Graunstadt in self-defense. A jury convicted appellant of assault with a semiautomatic firearm (Pen. Code, § 245, subd. (b)) and attempted murder (Pen. Code, §§ 664, 187, subd. (a)) and the trial court sentenced him to state prison.

On appeal, appellant contends the court erred by: (1) striking evidence of his knowledge of Graunstadt’s “reputation for dangerousness;” (2) excluding three of Graunstadt’s prior violent acts; and (3) allowing an “unqualified ‘expert’ to testify on medical matters outside his area of expertise.”

We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

We provide an overview of the facts here. We provide additional factual and procedural details as germane to the discussion of appellant's specific claims.

Background

In September 2010, appellant rented a house in Byron where he lived with his wife, his elderly mother, and a roommate, Cliff Graves. Graunstadt lived with his girlfriend, Gina Godsill, in a small studio behind the house. The studio did not have a kitchen or bathroom, so Graunstadt and Godsill used an area of the garage to prepare meals and a bathroom inside the main house. Appellant disliked Graunstadt; appellant thought Graunstadt was stealing his tools from the garage. He also did not like Graunstadt because "of what he has done to [Godsill] and the lifestyle he lives."

Godsill and Graunstadt had a turbulent relationship: they argued once a week and Graunstadt physically abused Godsill several times. In 2008 and 2010, law enforcement officers came to the studio where Graunstadt and Godsill lived after receiving reports of domestic disturbances. Each time the officers arrived, Godsill was distraught; she told the officers Graunstadt had punched and choked her. On one occasion, Godsill told a law enforcement officer Graunstadt had threatened to tie weights around her feet and throw her into the Delta. Godsill told the officer, "I am so afraid of him I think he would do [it]." Appellant's roommate, Cliff Graves, intervened in several of the couple's fights. When Graves intervened in a 2010 altercation, appellant grabbed him and "bounced him off a couple of walls and threw him out the door." Graves had twice "pull[ed] a gun" on Graunstadt when he intervened in a fight between Godsill and Graunstadt.

Graunstadt frequently uses methamphetamine, which "calms [him] down." He was convicted of felony assault in 1999 and 2008. In 2008, Graunstadt had a confrontation with a security guard hired by his father to keep him off of property owned by a family business. In 2009, Graunstadt borrowed a cell phone from a friend; when the friend asked Graunstadt to return the phone, Graunstadt attacked him.

The Shooting

On the evening before the shooting, Graunstadt and Godsill smoked methamphetamine. Then Graunstadt went to the garage to fix a flat tire on his mountain bike. He was sitting on his heels, like a baseball catcher. He did not have weapons or tools in his hands. At midnight, as Graunstadt was working, appellant entered the garage and said, “I want [you to] leave.” Graunstadt responded, “I’m not leaving” in an “offhand, casual” way. Appellant returned a few minutes later with a .45 caliber semiautomatic pistol and fired two shots at Graunstadt from about 8 to 12 feet away. One bullet hit Graunstadt in the abdomen and another grazed his arm.

Godsill came into the garage and began to scream. While appellant pointed the gun at Godsill, Graunstadt “jumped up,” opened the garage door, and “took off running.” As Graunstadt ran away, he “heard two more gunshots” and “was struck in the back, in the left buttock, and fell to the ground.” His femur bone shattered. As Graunstadt lay on the ground, appellant walked up to him and shot him three more times. Then appellant calmly said, “Well, I better go reload this clip” and left.

Bleeding and in “excruciating pain,” Graunstadt crawled to a neighbor’s house and cried out for help. Sheriff’s deputies arrived shortly thereafter and saw Graunstadt was “severely injured[.]” He had six bullet wounds, including wounds in his abdomen and right buttocks. A sheriff’s deputy spoke to appellant, who was not injured but appeared to be intoxicated. A sheriff’s deputy found the gun used in the shooting and noticed the seven-round magazine was empty. Law enforcement officers searched for a knife in the garage and front yard, but did not find one. Graunstadt spent 53 days in the hospital and had three major surgeries.

Cliff Graves’s Account of the Shooting

Graves drank heavily on the day before the shooting but remembers the incident clearly. He and appellant spent the day building a partition in the garage “so [appellant] could keep his tools from being stolen.” Graves went to bed at 10:30 p.m.; at 1 a.m., a series of pistol shots woke him up. He came out of his room and saw appellant walking from the kitchen to the entryway, holding a gun. Then Graves returned to his room and

heard “multiple poundings like somebody was . . . hitting a wall or something like that” coming from the kitchen. He left his room again and saw appellant kicking down the door to the laundry room.¹ Appellant turned to Graves, put his hands on Graves’s shoulders, and said, “This is what happened[,]” implying appellant would say that Graunstadt kicked down the door and tried to attack him. Graves agreed to the story and appellant called 911.

When he spoke with law enforcement officers immediately after the shooting, Graves did not tell them he saw appellant kick down the door because he liked appellant and was “trying to keep [appellant] from getting in trouble.” About five months later, however, Graves decided to tell the truth because his conscience “was eating [him] up every day.” After the shooting, Graunstadt was angry with Graves for not telling the truth about the incident. He and Graves had a verbal altercation, but Graunstadt did not direct Graves to tell the police anything, nor did he ask Graves to lie on Graunstadt’s behalf. According to Graunstadt, Graves “volunteered to change what he told the cops. He said I will go to the cops and tell them what happened, tell them the truth.” Graves claimed he would not lie for Graunstadt, whom Graves described as an “idiot” and “the lowest class.”

Defense Evidence

Appellant testified that on the day before the shooting, he and Graves had been building a wall in the garage to “secure [his] property[.]” Appellant had one beer around 8:30 p.m. and went to bed between 10:30 and 11:00 p.m. He was awakened by loud banging sounds. He thought someone was breaking the door between the laundry room and kitchen, so he tried to call 911, but the battery on his cell phone was dead. “[S]cared to death[,]” appellant grabbed the pistol from his nightstand and checked on his mother. Then appellant walked toward the kitchen and “panick[ed]” when he found the laundry

¹ After the shooting, Godsill hid from appellant in the backyard. She saw him kicking and “thrashing” and “making loud noises” in the kitchen. At trial, Godsill testified she did not remember many of the statements she made to police after the shooting.

room door on the floor. He heard “some noise in the garage” — like “like someone was digging through something” and peeked into the garage. He saw Graunstadt holding a knife. Appellant thought to himself, “It’s fucking Nate. . . . what the hell is he doing here?” Appellant was “nervous” because he was “scared to death” of Graunstadt and had “been afraid of him for months.”

Appellant asked Graunstadt, “[W]hat are you doing?” and Graunstadt responded, “Fuck you, Mark” with “rage on his face.” Graunstadt “jumped at [appellant] with the knife[.]” As Graunstadt came at him, appellant jumped back and fired his gun. Graunstadt stumbled a bit but then “came after” appellant again, saying, “‘you’re fucked.’” Appellant fired a second shot, and a third. At that point, Godsill came in the garage, screaming. As appellant was momentarily distracted by Godsill, Graunstadt opened the garage door and ran at appellant again. Appellant fired a fourth shot.² Graunstadt started chasing appellant with the knife, roaring “like an animal[.]” “[R]unning for [his] life[.]” appellant fired three more shots, emptying the magazine. After appellant fired the final shot, Graunstadt “knelt in a stumbling manner[.]” still clutching the knife. Appellant called 911, telling the dispatcher he “just shot some guy trying to come into my door, he broke my door down. I had to chase him into my garage, and I had to, he had a knife on him. . . .”

Several character witnesses — including a retired Alameda County fire captain, an Antioch reserve police officer, and an educator — testified on appellant’s behalf, describing him as honest, trustworthy, and a “non-violent, responsible, upstanding member of society.”

² Officer Coleman, an expert on crime scene reconstruction, firearms, trajectory analysis, and ejection pattern analysis, testified for the prosecution. He stated the pattern of shell casings — which were distributed over a wide area — was consistent with a shooter moving forward through the garage area, toward the driveway. They were not consistent with a shooter firing all shots from a single location, as appellant testified. Coleman explained that if the shooting occurred as appellant described, there would have been a significantly more blood in the garage, as well as a blood trail leading from the garage. He explained the physical evidence was much more consistent with Graunstadt’s version of events.

Verdict and Sentencing

The jury found appellant guilty of assault with a semiautomatic firearm (Pen. Code, § 245, subd. (b)) and attempted murder (Pen. Code, §§ 664, 187, subd. (a)). The jury found various sentencing enhancements true. The court sentenced him to state prison.

DISCUSSION

I.

The Court Did Not Err by Striking Appellant’s Testimony that Graunstadt was “Well Known Dangerous”

Appellant claims the court violated his constitutional rights to a fair trial and to present a defense by striking his testimony that Graunstadt was “well known dangerous.” “A person claiming self-defense is required to “prove his own frame of mind,” and in so doing is “entitled to corroborate his testimony that he was in fear for his life by proving the reasonableness of such fear.” (*People v. Minifie* (1996) 13 Cal.4th 1055, 1065, quoting *People v. Davis* (1965) 63 Cal.2d 648, 656; see also Simons, Cal. Evidence Manual (2013 ed.) § 6:25, p. 522, citing Evid. Code, § 1103, subd. (a)(1).)³ At the same time, however, “[t]he court shall exercise reasonable control over the mode of interrogation of a witness so as to make interrogation as rapid, as distinct, and as effective for the ascertainment of truth, as may be” (§ 765, subd. (a); see also Pen. Code, § 1044.) We review the court’s decision to strike appellant’s testimony for abuse of discretion. (*People v. Virgil* (2011) 51 Cal.4th 1210, 1249.)

The court struck the testimony at issue after appellant testified he heard noise coming from the garage, like “metal bouncing together[.]” He explained he “slowly went towards the sound and . . . was just scared to death.” He looked around the corner and saw Graunstadt. Defense counsel asked, “[W]hat happened next?” and the following colloquy occurred:

“[APPELLANT]: You know, I’m nervous, this guy . . . is well known dangerous and I’m scared to death of him. And I’m thinking like, what the hell is he doing here?”

³ Unless otherwise noted, all further statutory references are to the Evidence Code.

“[PROSECUTOR]: I’m going to object. Narrative. And also move to strike the well known dangerous portion.

“[THE COURT]: Sustained. It will be stricken. The jury is not to consider it.

“[DEFENSE COUNSEL]: Okay. You stated you were afraid of him?

“[APPELLANT]: I have been afraid of him for months.”

The court did not abuse its discretion by striking appellant’s statement that Graunstadt was “well known dangerous” because it was nonresponsive and in narrative form. “A witness must give responsive answers to questions, and answers that are not responsive shall be stricken on motion of any party.” (§ 766.) In addition, a “defendant, like all other witnesses, is restricted to responding to questions, and is not allowed to proceed in narrative.” (*People v. Kronemyer* (1987) 189 Cal.App.3d 314, 353.)

Nor did the court violate appellant’s constitutional rights to a fair trial and to present a defense by striking the testimony. The court did not preclude defense counsel from asking appellant *why* he was afraid of Graunstadt. (See *Kronemyer, supra*, 189 Cal.App.3d at p. 353 [“there was no impediment to the defense from rephrasing the question”].) Appellant testified about his fear of Graunstadt and his knowledge of Graunstadt’s violent altercations with Godsill. In fact, appellant testified he did not like Graunstadt because “of what he has done to his girlfriend and the lifestyle he lives[.]” In addition, the court admitted evidence of several incidents of Graunstadt’s domestic violence against Godsill.

Appellant relies on several cases, including *People v. Humphrey* (1996) 13 Cal.4th 1073, to support his argument that the court erred by striking his testimony that Graunstadt was “well known dangerous.” Appellant’s reliance on these cases is misplaced because the trial court did not preclude appellant from introducing evidence about his knowledge of Graunstadt’s violent tendencies. Instead, it merely struck one of many references to Graunstadt’s “dangerousness” because it was not responsive and in narrative form. We conclude the court did not err by striking appellant’s testimony that Graunstadt was “well known dangerous.”

II.

The Court Did Not Abuse Its Discretion by Excluding Three of Graunstadt's Prior Violent Acts

Next, appellant claims the court erred by “unfairly limit[ing] evidence” of three of Graunstadt’s “prior violent acts.” According to appellant, excluding this evidence “created a false image of Mr. Graunstadt as a person who was only violent with family members and intimates” when he actually was “a dangerous, violent man” who acted “aggressively” with everyone around him.

The court admitted evidence of the following prior violent acts by Graunstadt pursuant to section 1103: (1) Graunstadt’s 2008 assault on Godsill, where he threatened to tie weights to her feet and throw her into the Delta; (2) a 2009 “physical altercation” where Graunstadt attacked his friend after he asked Graunstadt to return his cell phone; and (3) a 2010 fight between Graunstadt and Godsill where Graves tried to intervene and Graunstadt attacked him. The jury also heard evidence that Graunstadt’s father hired security guards to prevent Graunstadt from returning to property owned by the family business.

The court excluded the following evidence of Graunstadt’s prior violent acts:

(1) A 1992 incident between Graunstadt and his then roommates where Graunstadt apparently kicked in the door to a roommate’s room and threatened to kill him. The court concluded the incident was “too remote” and more prejudicial than probative under section 352.

(2) Threats Graunstadt made against his ex-wife on two occasions in 1996. On one occasion, Graunstadt entered his ex-wife’s house “in violation of his probation . . . and broke a lamp.” On another occasion, he threatened to kill his ex-wife during a phone conversation. The court excluded this evidence because it had admitted other incidents showing Graunstadt had a “propensity for violence” and determined admitting “[a]dditional incidents . . . would be piling on, would take up too much time, and then become more prejudicial than probative” under section 352.

(3) A 2008 incident where law enforcement responded to a report about a stray dog and one officer believed Graunstadt urged the dog to bite the officer. According to law enforcement officers, Graunstadt became “very aggressive,” kicked the inside of the squad car, and made officers fear for their safety. The court excluded the evidence because it “would result in a mini-trial” because the law enforcement officers had differing descriptions of the incident and would have to testify.

Section 1103 creates an exception to the general rule that evidence of a person’s character or trait of character is inadmissible to show conduct “on a specified occasion.” (§ 1101, subd. (a).) Pursuant to section 1103, subdivision (a)(1), “in a criminal action, the defendant is permitted to offer evidence of the victim’s ‘character or a trait of character (in the form of an opinion, evidence of reputation, or evidence of specific instances of conduct)’ in order ‘to prove conduct of the victim in conformity with the character or trait of character.’ [Citation.]” (*People v. Fuiava* (2012) 53 Cal.4th 622, 695.) Although evidence of the victim’s character may be relevant and admissible under section 1103, the trial court retains discretion to exclude the proffered evidence under section 352. (*People v. Shoemaker* (1982) 135 Cal.App.3d 442, 448.) The trial court’s “exercise of [its] wide discretion must not be disturbed on appeal *except* on a showing that the court exercised its discretion in an arbitrary, capricious or patently absurd manner that resulted in a manifest miscarriage of justice.” [Citation.]” (*People v. Gutierrez* (2009) 45 Cal.4th 789, 828 [excluding evidence of victim’s misdemeanor battery conviction was not an abuse of discretion].)

The court did not abuse its discretion by excluding evidence of Graunstadt’s 1992 attack on his roommate. It was reasonable for the court to conclude: (1) the incident was more prejudicial than probative because of its similarity to the incident at issue; and (2) the 1992 incident was “too remote.” (*People v. Clair* (1992) 2 Cal.4th 629, 655 [excluding a 22-year-old prior conviction was not an abuse of discretion]; see also *People v. Gurule* (2002) 28 Cal.4th 557, 608 [court erred by admitting evidence of a prior crime that “was similar to the crime” alleged in the present case].) That “another court might

have concluded otherwise . . . does not establish that the court here ‘exceed[ed] the bounds of reason. . . .’ [Citation.]” (*Clair, supra*, 2 Cal.4th at p. 655.)

Nor did the court err by excluding evidence regarding threats Graunstadt made in 1996 because admitting the evidence would “necessitate undue consumption of time” (§ 352, subd. (a).) The court admitted several incidents demonstrating Graunstadt’s violent character, and its decision to exclude additional instances was not an abuse of discretion under section 352. (*People v. Partida* (2005) 37 Cal.4th 428, 436 [court may exercise its discretion to exclude cumulative evidence pursuant to section 352].)

Finally, we conclude the court did not abuse its discretion by excluding evidence regarding the 2008 incident on the grounds it would have required a mini-trial. If the trial court admitted the 2008 incident, the jury would have been required to hear multiple officers testify and determine what appellant actually did before considering what impact, if any, appellant’s 2008 conduct had on his self-defense claim. The court did not abuse its discretion in finding this mini-trial could confuse the issues and unduly consume time, especially when balanced against the marginal probative value of the evidence. (See *Fuiava, supra*, 53 Cal.4th at pp. 665-666 [need to conduct trial regarding prior incidents offered as character evidence justified trial court’s decision to exclude evidence under section 352]; *People v. Hamilton* (2009) 45 Cal.4th 863, 930 [need for “a mini-trial” on character evidence justified its exclusion under section 352].)

We conclude the court did not err by excluding evidence of Graunstadt’s 1992, 1996, and 2008 prior violent acts. Contrary to appellant’s claim, the court did not violate his constitutional right to present a defense. The court admitted sufficient evidence of Graunstadt’s violent conduct to enable the jury to evaluate appellant’s self-defense claim.

III.

The Court Did Not Err by Admitting Expert Testimony on the Effects of Controlled Substances on Shooting Victims and Any Error was Harmless

Appellant’s final contention is the court erred by allowing Officer Coleman to testify on “medical matters outside his area of expertise.”

Over appellant's objection, the court allowed Officer Coleman to testify for the prosecution as a rebuttal expert on, among other things, how shooting victims react when they are under the influence of a controlled substance. The court concluded Officer Coleman was not "a toxicologist, but he has studied how people react on these drugs and how they react after being shot on these drugs. And for that limited [reason], I think he qualifies as an expert." The court noted defense counsel "would point out on cross-examination that he is not a toxicologist."

Officer Coleman received training on the effects of controlled substances while working for the Los Angeles Police Department: he was "able to see firsthand" the physiological "effects of several [controlled substances and narcotics], including the effects of PCP and alcohol[.]" He is not trained as a toxicologist, but as a drug recognition expert, which includes making predictive assessments about the behavior of a person high on narcotics such as methamphetamine. Officer Coleman has attended three autopsies of gunshot victims who were under the influence of methamphetamine and has read 10 studies about similar cases.

Officer Coleman testified it would have been "very difficult" for someone who sustained three shots to the abdomen with a .45 caliber weapon to pursue a shooter, as appellant testified. According to Officer Coleman, a person shot three times in "large blood bearing organs" would go "down to the ground fairly soon." If the victim were under the influence of methamphetamine, it would delay the victim's reaction because a person "doesn't compensate as quickly . . . under the effects of methamphetamine." He also testified it was "commonly accepted" that methamphetamine creates "a delayed reaction."⁴ Officer Coleman reviewed Graunstadt's medical records and was surprised he lived "let alone could pursue somebody after sustaining th[o]se injuries."

⁴ Dr. Cooper, Graunstadt's treating physician, testified methamphetamine is a stimulant, which raises the heart rate and makes the user hyperactive. Officer Coleman acknowledged a FBI study concluding certain drugs can prevent gunshot victims from being incapacitated by suppressing pain.

According to appellant, Officer Coleman lacked the training to render the following opinions: (1) it is more difficult for the body to compensate for shots fired in quick succession; (2) a person shot three times in “large blood bearing organs” would go “down to the ground fairly soon;” (3) a person shot three to four times in the abdomen with a .45 from three to eight feet away could continue to pursue the shooter, but “it would be very difficult to do;” (4) he was surprised Graunstadt lived, “let alone could pursue somebody after sustaining th[o]se injuries;” (5) “[t]he only thing methamphetamine would do is slow your reactions,” because the body does not compensate as quickly under the effect of methamphetamine; (6) it was “commonly accepted” that methamphetamine creates “a delayed reaction.” We do not address appellant’s claims regarding Officer Coleman’s opinions on wound pathology and wound ballistics because appellant did not object to Officer Coleman’s qualification to testify on these subjects in the trial court. (*People v. McKinnon* (2011) 52 Cal.4th 610, 674 [failure to object to admission of evidence on specific ground advanced on appeal forfeits claim].)

“A person is qualified to testify as an expert if he has special knowledge, skill, experience, training, or education sufficient to qualify him as an expert on the subject to which his testimony relates.” (§ 720, subd. (a).) However, “a person may be qualified as an expert on one subject and yet be unqualified to render an opinion on matters beyond the scope of that subject. [Citations.]” (*People v. Hill* (2011) 191 Cal.App.4th 1104, 1120, quoting *People v. Williams* (1992) 3 Cal.App.4th 1326, 1334.) “The determination that a witness qualifies as an expert and the decision to admit expert testimony are within the discretion of the trial court and will not be disturbed without a showing of manifest abuse. [Citation.] ‘Error regarding a witness’s qualifications as an expert will be found only if the evidence shows that the witness “‘clearly lacks qualification as an expert.’”” [Citations.]” (*Hill, supra*, 191 Cal.App.4th at p. 1118, quoting *People v. Farnam* (2002) 28 Cal.4th 107, 162.)

Appellant relies on several cases where evidence was or should have been excluded because the expert had absolutely no relevant training. For example, appellant

cites *People v. Hogan* (1982) 31 Cal.3d 815, where the California Supreme Court concluded a criminologist was not qualified to determine whether “blood had been spattered or transferred by contact” because “[h]e had never performed any laboratory analyses to make such determinations either in the past or in the present case. He had admittedly received no formal education or training to make such determinations. . . . Also, he had observed bloodstains at many crime scenes, and had determined in his own mind whether they were spatters or ‘wipes,’ but had never verified his conclusions in any way.” (*Id.* at p. 852.)⁵

The *Hogan* court determined “mere observation of preexisting stains without inquiry, analysis or experiment, does not invest the criminalist with expertise to determine whether the stains were deposited by ‘spatters’ or ‘wipes’” and characterized the criminologist’s qualifications as an expert on this issue as “nonexistent.” (*Hogan, supra*, 31 Cal.3d at pp. 852, 853.) Here and in contrast to the criminologist in *Hogan*, Coleman’s qualifications were not “nonexistent.” (*Id.* at p. 852.) Unlike the criminologist in *Hogan*, Officer Coleman had: (1) worked on numerous cases involving controlled substances, where he was “able to see firsthand” the physiological “effects of several [controlled substances and narcotics], including the effects of PCP and alcohol[;]” (2) reviewed 10 case reports involving gunshot victims who had drugs and alcohol in their systems; and (3) attended three autopsies of gunshot victims who were under the influence of methamphetamine.⁶ As a result, the court “could reasonably conclude that [Coleman’s] expertise rendered him qualified to testify to the challenged opinions.”

⁵ *Hogan* has been overruled on another point in *People v. Cooper* (1991) 53 Cal.3d 771, 815.

⁶ Appellant’s reliance on *People v. Fierro* (1991) 1 Cal.4th 173, 223, disapproved on a different point in *People v. Letner and Tobin* (2010) 50 Cal.4th 99, is also unavailing. In *Fierro*, our high court determined the trial court properly excluded testimony by a retired deputy sheriff about a bullet wound because he “had no training or background in pathology and had never previously testified as an expert in that field; he had never examined a bullet wound microscopically, conducted tests to determine the effects of a bullet on the human body or removed a bullet from a human body. Nor did he know the meaning of the term ‘epithelial crush injury.’” (*Fierro*, at p. 224.) Here, Officer Coleman had training and background in the effects of controlled substances.

(*Hill, supra*, 191 Cal.App.4th at p. 1121, fn. omitted; *People v. Bolin* (1998) 18 Cal.4th at pp. 297, 322 [witness qualified to testify as an expert based on education, training, and work experience].)

That Graunstadt's treating physician reached a different conclusion regarding the effects of methamphetamine does not demonstrate Officer Coleman lacked the requisite training to testify on the subject of controlled substances. "Where a witness has disclosed sufficient knowledge of the subject to entitle his opinion to go to the jury, the question of the degree of his knowledge goes more to the weight of the evidence than its admissibility." (*Bolin, supra*, 18 Cal.4th at p. 322, quoting *Seneris v. Haas* (1955) 45 Cal.2d 811, 833.)

Assuming the court erred by admitting Coleman's rebuttal testimony, any error was harmless. (*People v. Clark* (2011) 52 Cal.4th 856, 940-941 [erroneous admission of prosecution's expert witness testimony subject to *Watson* standard of harmless error].) The physical evidence supported Graunstadt's version of the events and contradicted appellant's claim that he fired all of the shots from the garage as Graunstadt charged at him. For example, Coleman testified that the pattern of shell casings was consistent with a shooter moving forward through the garage area, toward the driveway. Coleman also testified that had the shooting occurred as appellant described, there would have been more blood in the garage, as well as a blood trail leading from the garage. In addition, Graunstadt's injuries indicated appellant's account of the incident was not true for two reasons: (1) Graunstadt had entry wounds on his buttocks, suggesting appellant fired at Graunstadt as he was trying to get away and not when Graunstadt was lunging at him; and (2) Graunstadt's femur was shattered, likely making it impossible for him to have run around the garage, as appellant claimed. Finally, Graves testified he saw appellant break down the door to the laundry room to try to make his story more convincing; Godsill similarly told police she saw appellant kicking and "thrashing" in the kitchen after the shooting. Under the circumstances, we cannot conclude "it is reasonably probable a verdict more favorable to [appellant] would have resulted" had the court excluded Coleman's rebuttal testimony. (*People v. Bowker* (1988) 203 Cal.App.3d 385, 395.)

DISPOSITION

The judgment is affirmed.

Jones, P.J.

We concur:

Simons, J.

Needham, J.