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

THE PEOPLE,
Plaintiff and Respondent,
v.
CARNELL L. MAYFIELD,
Defendant and Appellant.

A140317
(San Francisco County
Super. Ct. No. 206608)

In 2010, defendant Carnell Mayfield was found guilty of committing a nonforcible lewd and lascivious act on a child under the age of 14 in violation of Penal Code section 288, subdivision (a).¹ He was sentenced to six years in state prison and ordered to pay \$2,000 in restitution for relocation expenses incurred by the victim’s family. Defendant appealed, challenging the restitution order on the ground that the necessity of the relocation expenses had not been verified by either law enforcement or a mental health provider, as mandated by section 1202.4, subdivision (f)(3)(I). Agreeing that the trial court abused its discretion in ordering the restitution without the verification, we reversed. (*People v. Mayfield* (Nov. 5, 2012, A130750) [nonpub. opn.].)

Following remand, the People resubmitted the restitution request, this time supported by a report prepared by psychologist Navneet Gill, who verified victim S.C.’s need to relocate. Relying on this report, the trial court reinstated the restitution order. Defendant again appeals, this time contending that the restitution order constituted an

¹ All further statutory references are to the Penal Code.

abuse of the trial court's discretion because Dr. Gill's report was inadequate to satisfy the verification requirement, and there was no evidence the family relocated either as a result of defendant's conduct or away from him. We conclude defendant's arguments lack merit, and we affirm.

BACKGROUND

In our prior opinion, we detailed the factual background of this case. (*People v. Mayfield, supra*, A130750.) Since many of those facts are irrelevant to the issues before us, we omit them here, discussing instead only those relevant to the current appeal.

Those facts are as follows:

In August 2010, defendant was charged with five counts of sexually assaulting then 12-year-old S.C. in October 2007. Following a jury trial, he was found guilty of committing a nonforcible lewd and lascivious act on a child under the age of 14. (§ 288, subd. (a).) The trial court sentenced him to the midterm of six years in state prison and ordered him to pay \$2,000 in restitution for relocation expenses incurred by S.C.'s family. The order was based in part on a law enforcement relocation benefit verification form stating that “[o]n October 26, 2007, [S.C.] was raped inside her home There are pending charges against the perpetrator for breaking into her home and sexually assaulting her. She is one of six children in the family. [¶] Since the crime, [S.C.] and her family have found it difficult to reside in the crime location. To date, there is still a large hole in the carpet where law enforcement cut into [it] to obtain DNA evidence. In addition, the victim and her family have been harassed by neighbors about the crime. [S.C.] stays inside her home in order to avoid inappropriate questions. In order to assist in [S.C.'s] recovery, it is pertinent for her and her family to relocate.”

Defendant appealed, claiming the restitution order failed to comply with section 1202.4, subdivision (f)(3)(I), which requires that restitution “expenses incurred by an adult victim in relocating away from the defendant . . . shall be verified by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.” (*People v. Mayfield, supra*, A130750 at pp. 3–4.) We concluded that the relocation expenses for

S.C.'s family required verification by a mental health treatment provider. As no such verification supported the restitution claim, we reversed the order and remanded the matter for further proceedings. (*Id.* at pp. 4–5.)

On April 18, 2013, the People filed a motion for restitution, again seeking relocation expenses for S.C.'s family. Submitted in support of the motion was a report prepared by clinical psychologist Navneet Gill, who had conducted a psychological evaluation of S.C. Dr. Gill, a specialist in psychological and neuropsychological assessments, detailed the background information she reviewed prior to evaluating S.C., which included the People's sentencing memorandum and their additional statement on behalf of the victim, the victim impact statement, an interview of S.C. at the child and adolescent sexual abuse resource center, the police investigation report, a police cold show admonition and report, the probation officer's report and recommendation, the charging document, and the transcript of the preliminary hearing, including S.C.'s testimony.

As set forth in her report, Dr. Gill interviewed S.C. on March 28, 2013, and gave her two self-report assessments to ascertain her level of depression and anxiety. She described S.C.'s demeanor during the interview as "uncomfortable and anxious, hesitant to engage in the interview process," with her anxiety "increasing as the assessment continued." S.C. was irritable and provided "short, curt responses in an effort to avoid distressing thoughts," a behavioral response, Dr. Gill noted, that "is not uncommon in individuals who have endured trauma and are put in a position to recount the circumstances."

After discussing S.C.'s medical, alcohol/drug, education/work, and social histories, Dr. Gill described S.C.'s current psychological status: "[S.C.] reported ongoing significant depression, stating, 'everything makes me depressed.' She endorsed feelings of persistent sadness, a frequent urge to scream, and hit a table. [S.C.] reported often crying easily but not understanding exactly why. She indicated her family and friends feel she gets angry and irritated quickly. These symptoms are frequently observed in trauma victims who feel a loss of control and sense of helplessness. Her relationships

with others have changed with regards to who she can trust. This has led to her isolating and limiting herself socially. She does not enjoy things as much as she used to and often feels restless. [S.C.] also finds it hard to make decisions for herself. Her sleep is affected. She gets up early morning finding it hard to fall back asleep. Her appetite tends to vary. Importantly, [S.C.] also expressed thoughts of suicide. . . .”

Dr. Gill also reported that S.C. described symptoms meeting the criteria for posttraumatic stress disorder (PTSD), including avoidance of being home alone because she experienced flashbacks; anxiety when she passed her old neighborhood because it brought back memories related to the assault; fear in the presence of others, particularly strangers; withdrawal from socializing with others; difficulty trusting others; and recurring nightmares about the incident. And, according to Dr. Gill, S.C. was very fearful about defendant’s impending release from jail, stating that she “fears for her safety and thinks that he is going to look for her and kill her.”

After noting that S.C. scored as severely depressed and anxious on two screening tools, Dr. Gill concluded that as a result of the trauma of the incident involving defendant, “[S.C.] continues to experience significant lasting repercussions and impact on her psychological health [¶] . . . She explicitly stated that it remains incredibly difficult[] for her to even go near or drive by the neighborhood (Western Addition) where her home was and where she was assaulted, causing her flashbacks. This was a place where she had felt safe, in her family’s home. For [S.C.] to return home and live her life in the same place as the crime occurred, it would have undoubtedly been a constant trigger in re-living the experience over and over again, which can be incredibly psychologically damaging. Victims with PTSD frequently develop and need to engage in avoidance of certain stimuli associated with the trauma (i.e. places, smells, sights, sounds, etc.) that can cause them to experience the trauma as if it were re-occurring as a self-preservation/ protective measure. It was imperative that [S.C.] regain a sense of safety in her home and community and by her moving to another area, she did not have to face the trauma over and over again allowing her to do just this. While this does not relieve her of

some ongoing psychological difficulties, the move allowed her to focus on her daily quality of life and overall sense of safety.”

On October 11, 2013, the trial court held a second restitution hearing. At the hearing, counsel for defendant called as a witness Jeffrey Gould, an expert in psychiatry and forensic psychiatry. Dr. Gould testified regarding his own evaluation techniques and his assessment of Dr. Gill’s psychological report. Specifically, he testified that multiple interview sessions will sometimes encourage a reluctant subject, such as S.C., to open up and engage in the interview process. When questioned about the validity of self-reported thoughts and feelings, Dr. Gould explained that collateral interviews—such as with the subject’s family and friends—and information from past and present medical records could help validate the results of self-report assessments such as those Dr. Gill gave S.C. He also noted no indication in Dr. Gill’s report that she attempted to ascertain other possible traumas that could explain the symptoms S.C. reported.

After defense counsel concluded her questioning of Dr. Gould, the following exchange occurred between the court and the witness:

“THE COURT: . . . So do you agree with the diagnos[is] of post-traumatic distress disorder that Dr. Gill finds?

“[Dr. Gould]: No. Not based on the information that’s provided in the report . . . where [she] lists the symptoms of PTSD. [¶] . . .

“THE COURT: So you’re in agreement that PTSD would be an appropriate diagnosis for [S.C.] given the facts that Dr. Gill presented in her report?

“[Dr. Gould]: Given the information in the report, yes.”

Defense counsel then asked Dr. Gould if the methodology in the report was “complete and sound,” to which he responded that he would have gathered more information, spoken to collateral sources, and performed “valid testing with valid indices.” With only information from the subject and nothing else to substantiate or refute it, Dr. Gould represented that he would have less confidence in the opinion.

After argument by counsel, the court stated that it was “satisfied by a preponderance of the evidence that the move in this case was necessary for [S.C.’s]

emotional well-being.” In reaching this conclusion, it relied on Dr. Gill’s report and “the fact that the defense expert, Dr. [Gould], has said he doesn’t disagree with the diagnosis.” Accordingly, the court reinstated the \$2,000 restitution order.

Defendant timely appealed.

DISCUSSION

The Law Governing Restitution For Relocation Expenses and the Standard of Review

In 1982, California voters passed Proposition 8, also known as The Victims’ Bill of Rights, which “established the right of crime victims to receive restitution directly ‘from the persons convicted of the crimes for losses they suffer.’ ” (*People v. Giordano* (2007) 42 Cal.4th 644, 652, quoting Cal. Const., art. I, § 28, subd. (b).) The initiative made clear that “ ‘[r]estitution shall be ordered from the convicted persons in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss, unless compelling and extraordinary reasons exist to the contrary.’ ” (*People v. Giordano, supra*, 42 Cal.4th at p. 652.) A victim’s right to restitution is to be broadly and liberally construed. (*People v. Lyon* (1996) 49 Cal.App.4th 1521, 1525; *People v. Phelps* (1996) 41 Cal.App.4th 946, 950.)

To give effect to The Victims’ Bill of Rights, the California Legislature enacted section 1202.4. As we summarized in *People v. Chappelone* (2010) 183 Cal.App.4th 1159, 1172: “In its current incarnation, [section 1202.4] provides that ‘a victim of crime who incurs any economic loss as a result of the commission of a crime shall receive restitution directly from any defendant convicted of that crime.’ (§ 1202.4, subd. (a)(1).) Subdivision (f) of section 1202.4 states that, subject to certain exceptions not applicable here, ‘in every case in which a victim has suffered economic loss as a result of the defendant’s conduct, the court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the court. . . . The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so, and states them on the record.’ Restitution ‘shall be of a dollar amount that is

sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct. . . .' (§ 1202.4, subd. (f)(3).) Subdivision (f)(3)(A) through (K) identifies, without limitation, examples of economic losses that are recoverable by the victim, including losses to property.”

As pertinent here, section 1202.4, subdivision (f)(3)(I) identifies as a reimbursable economic loss “[e]xpenses incurred by an adult victim in relocating away from the defendant, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items.” It further provides that “[e]xpenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.”

We review the trial court's restitution order for abuse of discretion. (*People v. Chappelone, supra*, 183 Cal.App.4th at p. 1173.) The abuse of discretion standard “ ‘asks in substance whether the ruling in question “falls outside the bounds of reason” under the applicable law and the relevant facts [citations].’ [Citation.]” (*People v. Giordano, supra*, 42 Cal.4th at pp. 663-664.) “The court abuses its discretion when it acts contrary to law [citation] or fails to ‘use a rational method that could reasonably be said to make the victim whole, and may not make an order which is arbitrary or capricious.’ [Citation.]” (*In re Anthony M.* (2007) 156 Cal.App.4th 1010, 1016.) We will not reverse “[w]here there is a factual and rational basis for the amount of restitution ordered by the trial court.” (*People v. Dalvito* (1997) 56 Cal.App.4th 557, 562.)

The Trial Court Did Not Abuse its Discretion In Reinstating the Restitution Order

As noted, section 1202.4, subdivision (f)(3)(I) requires that a claim for relocation expenses incurred out of necessity for the emotional wellbeing of the victim be supported by a verification of a mental health treatment provider. The People here submitted the required verification in the form of the report prepared by Dr. Gill, an experienced clinical psychologist with specialized training in psychological and neuropsychological

assessments. Dr. Gill was familiar with the background of the case, as evidenced by the substantial documentation she read prior to evaluating S.C. She then conducted a clinical interview of S.C. and gave her two self-report assessments to ascertain her current level of depression and anxiety.

Dr. Gill noted that S.C. reported numerous symptoms frequently observed in victims of trauma, as well as symptoms meeting the criteria for PTSD. According to Dr. Gill, S.C. was very concerned about defendant's impending release from jail, fearing that he would find and harm her. Noting that S.C. scored as severely depressed and anxious on two screening tools, Dr. Gill opined that S.C. continued to experience significant psychological health concerns as a result of the trauma from the incident involving defendant. And, significantly, as to her former home where the incident occurred, Dr. Gill said this: "[S.C.] explicitly stated that it remains incredibly difficult[] for her to even go near or drive by the neighborhood (Western Addition) where her home was and where she was assaulted, causing her flashbacks. This was a place where she had felt safe, in her family's home. For [S.C.] to return home and live her life in the same place as the crime occurred, it would have undoubtedly been a constant trigger in re-living the experience over and over again, which can be incredibly psychologically damaging. Victims with PTSD frequently develop and need to engage in avoidance of certain stimuli associated with the trauma (i.e. places, smells, sights, sounds, etc.) that can cause them to experience the trauma as if it were re-occurring as a self-preservation/protective measure. It was imperative that [S.C.] regain a sense of safety in her home and community and by her moving to another area, she did not have to face the trauma over and over again allowing her to do just this. While this does not relieve her of some ongoing psychological difficulties, the move allowed her to focus on her daily quality of life and overall sense of safety."

In light of Dr. Gill’s verification that the relocation of S.C.’s family was necessary for S.C.’s wellbeing, we conclude that the trial court’s reinstatement of the restitution order was neither arbitrary nor capricious. There was thus no abuse its discretion.²

Defendant asserts three arguments challenging this conclusion, none of which has merit. First, defendant contends that Dr. Gill’s report “failed to adequately provide reliable, substantial evidence . . . as is statutorily required.” In claimed support, he relies on the testimony of Dr. Gould identifying supposed deficiencies in Dr. Gill’s evaluation methodology and describing what he would have done differently. Dr. Gould’s testimony in no way undermined the validity of Dr. Gill’s verification.

Significantly, section 1202.4 itself does not specify requirements for the verification, and no California case has analyzed the verification requirement. Thus, the sole standard before the trial court—and, indeed, before us—was that set forth in the statute: that a “mental health treatment provider” verify that the relocation expenses were necessarily incurred “for the emotional well-being of the victim.” Not only did Dr. Gill’s report contain such a verification, it went well beyond that, providing a clinical psychological evaluation of S.C. that detailed the extensive psychological concerns she still suffered more than six years after the incident. This report was hardly unreliable, even if Dr. Gould would have conducted the evaluation differently.

Defendant takes issue with Dr. Gill’s diagnosis that S.C. suffered from PTSD, as well as the court’s belief that Dr. Gould agreed the information in the report supported such a diagnosis. But section 1202.4, subdivision (f)(3)(I) does not require a PTSD diagnosis to support a claim for relocation expenses. It is thus of no import whether or not Dr. Gould agreed with Dr. Gill’s diagnosis, nor, for that matter, that she even made the PTSD diagnosis.

² Defendant also contends that the trial court violated his right to due process by “predicating its restitution on unreliable documentary evidence” The People argue defendant forfeited his due process claim by failing to object on this basis below. We need not address the forfeiture issue, since we conclude the trial court did not base its restitution order on unreliable evidence and any due process claim thus fails on the merits.

Defendant next claims that Dr. Gill's report failed to establish that S.C.'s relocation resulted from defendant's criminal conduct. In fact, her report contained abundant evidence linking S.C.'s need for relocation to defendant's conduct. Dr. Gill detailed the psychological harm S.C. continued to suffer more than six years after the incident, a list of symptoms that was indeed lengthy. Dr. Gill concluded that memories of her old home caused her anxiety because it brought back memories of the incident. According to Dr. Gill, S.C. needed to move away from the place where the crime occurred because the home was a constant trigger, causing her to relive the experience over and over again. By relocating, S.C. was able to focus on her quality of life and regain her overall sense of safety. Finally, there was no evidence that S.C.'s family was being opportunistic and that it moved for reasons unrelated to the lasting impact on S.C. of defendant's criminal conduct.

Defendant's last contention is that "the court was presented with no evidence S.C. was 'relocating *away* from the defendant,' " as section 1202.4, subdivision (f)(3)(I) requires. We first note that section 1202.4, subdivision (f)(3) merely sets forth examples of economic loss that are recoverable by the victim of a crime. As indicated by the prefatory clause "including, but not limited to," the categories listed are illustrative, not exhaustive. Thus, a victim may be entitled to expenses incurred as a result of defendant's criminal conduct even if not identified as a reimbursable expense in subdivisions (A) through (K). (See *People v. Mearns* (2002) 97 Cal.App.4th 493, 503 (*Mearns*) ["[P]utting aside the specific wording in section 1202.4, subdivision (f)(3)(I), the trial court reasonably could have concluded that the [relocation expenses were] an 'economic loss' within the general language of the first sentence of section 1202.4, subdivision (f)."].) Thus, S.C. was entitled to restitution for relocation expenses whether or not her family relocated away from defendant.

Beyond that, the record contained evidence demonstrating that S.C. and her family did in fact relocate away from defendant. *Mearns, supra*, 97 Cal.App.4th 493 is instructive.

In *Mearns*, defendant pleaded guilty to raping a woman in her mobilehome. The trial court ordered restitution to the victim for the difference between the cost of purchasing a new trailer and the sale price of the mobilehome where the assault took place. (*Mearns, supra*, 97 Cal.App.4th at p. 496.) Defendant appealed, challenging the restitution order on the ground the victim was not entitled to relocation expenses because she did not move to the new mobilehome in order to avoid further contact with him. This was so, he reasoned, because he was arrested in mid-2000 and she did not move until sometime in 2001. (*Id.* at p. 502.)

The Court of Appeal rejected defendant's argument, noting that defendant knew where the victim lived, and even though defendant was incarcerated, he could have been released from custody. Thus, according to the court, there existed a rational basis for concluding that, in relocating to another mobilehome, the victim did so in material part to relocate away from defendant within the meaning of section 1202.4, subdivision (f)(3)(I): "She moved to prevent defendant from finding her again and reduce the fears engendered by the very mobilehome where she was sexually assaulted at knife point." (*Mearns, supra*, 97 Cal.App.4th at pp. 502-503.) Likewise here.

In the law enforcement relocation benefit verification form, it was represented that the police investigation left a large hole in the carpet at S.C.'s home and that S.C. and her family had been harassed by neighbors about the crime, necessitating relocation. At the time of S.C.'s move, just two months after the crime occurred, defendant had not yet been convicted, and he could have been released from custody. (See, e.g., *Mearns, supra*, 97 Cal.App.4th at p. 502 ["Because defendant was in custody does not mean the trial court was required to conclude [the victim] moved for some other reason. When she moved, defendant had not been convicted of anything. Defendant could have been acquitted or released from custody for some other reason."].) In her interview, S.C. reported to Dr. Gill that she had "ongoing fears related to [the defendant's] upcoming release that has heightened her anxiety and desire to leave the state to get as far away as possible from [the defendant]." S.C. also experienced trauma associated with the crime having occurred in her home. There was, therefore, a "rational basis for concluding that

in moving . . . [the victim] did so in material part because she was ‘relocating away from [the] defendant’ within the meaning of 1202.4, subdivision (f)(3)(I).” (*Mearns* at p. 503.)

As we stated in *People v. Rowland* (1997) 51 Cal.App.4th 1745, 1754, section 1202.4 requires that the court order restitution “in an amount which will fully reimburse the victim for his or her losses unless there are clear and compelling reasons not to do so.” And, as noted, the right to restitution is to be liberally construed. (*People v. Lyon, supra*, 49 Cal.App.4th at p. 1525.) We will only reverse where the restitution order “ ‘falls outside the bounds of reason’ ” (*People v. Giordano, supra*, 42 Cal.4th at pp. 663-664), which, given the record before us, was not the case here.

DISPOSITION

The trial court’s reinstatement of the \$2,000 restitution is affirmed.

Richman, Acting P.J.

We concur:

Stewart, J.

Miller, J.