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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

JONATHAN MANO,

Defendant and Appellant.

B235284

(Los Angeles County
Super. Ct. No. NA080274)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Mark C. Kim, Judge. Affirmed.

Chris R. Redburn, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Scott A. Taryle and Pamela C. Hamanaka, Deputy Attorneys General, for Plaintiff and Respondent.

Jonathan Mano is serving a term of 52-years-to-life for first degree murder. His conviction rests principally on the testimony of an informant whose convictions for armed robberies in the state of Washington were excluded from evidence at Mano's trial. Mano claims this ruling and other evidentiary errors require us to reverse his conviction. We don't agree.

FACTS AND PROCEEDINGS BELOW

Christopher Davenport was shot on a street in San Pedro in the early morning hours of May 18, 2007. There were no eyewitnesses to the murder but residents of the neighborhood reported hearing the shots and immediately afterward hearing a Japanese-sounding motorcycle speed from the scene.

Eight days later, on May 26, 2007, two Los Angeles police officers detained Charles Bliss for riding his bicycle on a San Pedro sidewalk. The officers found narcotics in Bliss's possession and placed him under arrest. In the course of his arrest Bliss told the officers that he had information about some narcotics cases. The officers told Bliss they weren't interested in that information and asked him whether he had any information on the "Tittyhead" murder. (Tittyhead was Davenport's nickname.) Bliss said that he might know something. According to Bliss, one of the officers showed him the picture of a man that Bliss identified as being involved in the murder. The man in the picture was not Mano.¹ The officers took Bliss to the Harbor Division station where he was interviewed by the detectives assigned to the Davenport investigation.

Bliss's first interview with the detectives was on May 26, 2007, the day of his arrest. He told the detectives that three or four days earlier (i.e. some time after the murder) he and a friend were sitting in the hallway of an apartment building when a man

¹ The officer whom Bliss claimed showed him the photograph testified he did not remember doing so and that it was not his practice to show photographs to possible witnesses in homicide investigations. The officer was positive that he did not show Bliss a photograph of Mano because he knew Mano and would have remembered showing Bliss his picture.

named Grageda and another man whose name he didn't know entered the hall. Bliss described the unnamed man and said that he was wearing a white T-shirt. He did not see any tattoos on him. The man was waiving a .380 or nine-millimeter gun as he and Grageda spoke. Bliss overheard portions of the men's conversation. Grageda told the man that he had paid him "darn good money to--take care of this little item for him because the guy owed him a line of money." Bliss also heard Grageda tell the man: "I paid you to do a good job [and] apparently you did." "I'll hire you again, you know, provided you don't - that nothing bad goes on over here . . . directed towards me or anything else." Grageda threatened the man that "if I go to jail . . . the homeboys are going come out and get you." Bliss heard Grageda mention "something about a black guy over on 1st and Gaffey . . ." ² He thought Grageda might be referring to a recent murder because he had heard on the street before the murder that someone owed a large "dope debt" and "they're going to shoot him." The detectives asked Bliss why he was talking to them. Bliss answered: "Because . . . I'm tired of being locked up and this is a serious matter." Detective Rodriguez told Bliss that he couldn't make any deals or promises but that he would inform the District Attorney's office of Bliss's cooperation.

The detectives' second interview with Bliss took place a year later, on June 4, 2008, at Corcoran State Prison. Bliss identified Mano from a photographic lineup as the person that had been conversing with Grageda in the hallway. ³ He mentioned the name Davenport to the detectives for the first time.

Bliss was interviewed again on June 26, 2008. This time he told the detectives that the conversation between Grageda and the unnamed man took place before the Davenport murder. He stated that he heard Grageda ask the man: "Now, you know who Davenport is, don't you? You sure?" The other man answered: "Yeah."

² The murder occurred on First Street in San Pedro.

³ At trial, Bliss testified that the person in the lineup looked "similar" to the man in the hall "but it wasn't him."

Grageda stated to the man: ““Well, we’ve already made arrangements. . . . Take care of it and it’s done.””

Mano and Grageda were arrested and charged with murder and conspiracy to commit murder. Bliss testified at their preliminary hearing. During a lunch break, Bliss told the deputy D.A. and the detectives for the first time that the man he saw conversing with Grageda in the hallway had a tattoo on his abdomen. Bliss stated he could see the tattoo and the man’s gun because the man’s T-shirt “was open and that he could see the gun and, in fact, he could see a tattoo on the abdomen area.”⁴ Bliss identified Mano at the preliminary hearing as the person he had seen in the hallway with Grageda.

Mano and Grageda were tried separately.

Before Mano’s trial began, and before Bliss testified, Mano asked the court to allow him to impeach Bliss with two robbery convictions in the state of Washington in the 1970s.⁵ The court excluded evidence of those convictions on the ground that they were too remote. The court also disallowed evidence that as a consequence of the Washington robbery convictions Bliss was subject to a 25-to-life sentence under the California Three Strikes law when he was arrested for narcotics possession in May 2007. The court ruled that under Evidence Code section 352 the evidence was unduly prejudicial and not very probative because Mano could not show that Bliss was actually promised some benefit in return for his testimony. The court, however, did allow Mano to impeach Bliss with a 1993 conviction for spousal abuse.

At Mano’s trial Bliss testified that the conversation he heard between Mano and Grageda occurred about half an hour before he was arrested on May 26, 2007 but moments later corrected himself and stated the conversation occurred four, five or six days before his arrest (the week after the murder, under either version).

⁴ Mano has the word “Rancho” tattooed on his abdomen.

⁵ We take judicial notice that in June 1975 a person named Charles Bliss was convicted of two counts of armed robbery in Grays Harbor, Washington and sentenced to concurrent 20 year terms. (*State v. Lewis* (Wa.App. 1978) 573 P.2d 1347, 1349.)

On cross-examination, Bliss stated that he believed he heard the conversation on May 26, 2007, half an hour before he was arrested but that he wasn't sure.

Bliss testified that he and his girlfriend were in the hallway of an apartment building when he heard Grageda and another man, who were also in the hallway, arguing. The other man "sounded like he demanded more money or something" and Grageda responded "that he had already gave him enough; he wasn't going to give him any more" and that he had "already gave him enough to kill a moose." After saying that, Grageda told the man: "If you do a good job, . . . I will hire you again some time." Bliss stated he did not know what the men were referring to or what the man was being hired or paid to do but he did hear Grageda mention the name Davenport. Grageda asked the other man if he knew who Davenport was and the man said yes. After that Grageda said "I will pay you what we agreed on'" and Grageda and the man left the building. Bliss positively identified Mano as the man who had the conversation with Grageda in the hall.

Other evidence linked Mano to the murder. Approximately four months after the murder police conducting a parole search found a Barretta semiautomatic handgun along with 9 millimeter ammunition and a canvas shoulder holster in a bedroom rented by Mano. Mano admitted possession of the gun. Ballistics tests showed that the Barretta was the murder weapon. The prosecution also produced evidence that a month before the murder Mano purchased a Yamaha motorcycle.

A jury convicted Mano of one count of first degree murder and acquitted him of the conspiracy charge. The court sentenced Mano to a total prison term of 52 years to life.

DISCUSSION

Focusing on Bliss's testimony alone, Mano argues that there was insufficient evidence to convict him of murder. We disagree. We note that although Bliss's testimony was rife with inconsistencies and contradictions he was consistent in identifying Mano in the photo line-up, at the preliminary hearing and at the trial as the man he saw and heard conversing with Grageda in the apartment house hallway. Bliss

was also consistent in describing the parts of the conversation that he overheard between Grageda and Mano. Inconsistencies and contradictions within a witness's testimony are for the jury to resolve, not the appellate courts. (*People v. Hecker* (1960) 179 Cal.App.2d 823, 827.)

Mano contends that the court erred in not allowing him to impeach Bliss with the two 37-year-old armed robbery convictions. The court did, however, allow evidence that Bliss was arrested for a drug offense in 2007 and that he was in prison for that crime in 2008 when he talked to the police. The court also allowed evidence that he had been convicted of spousal abuse in 1993. Thus the jury was presented with significant evidence of criminal behavior even absent evidence of the 37-year-old convictions. Therefore the court did not abuse its discretion under Evidence Code section 352 in excluding evidence of the robberies as substantially more prejudicial than probative on the issue of honesty.

Mano, however, argues that the robbery convictions were relevant not only on the issue of honesty but also to show that Bliss had a motive to invent or embellish Mano's involvement in the murder in order to try to avoid a 25-to-life Three Strikes sentence for drug possession. We agree that this theory presents a separate relevance issue but we conclude the facts do not support the theory. Bliss was sentenced for the drug offense *before* he identified Mano as the person he saw conversing with Grageda.⁶

In any case, even if the court erred in excluding evidence of the robbery convictions the strong circumstantial evidence of Mano's guilt rendered that error harmless: Mano not only owned a Yamaha motorcycle at the time of the murder but was found in possession of the murder weapon.

Finally, Mano argues that the court erred in allowing Davenport's girlfriend to testify because she had nothing relevant to say and her testimony only inflamed the

⁶ Mano does not contend that the trial court could have reduced the sentence he was serving as a reward for his assistance to the police.

passions of the jury. Given the strength of the People's case, as discussed above, the error, if any, was harmless. (*People v. Watson* (1956) 46 Cal.2d 818, 836.)

DISPOSITION

The judgment is affirmed.

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ROTHSCHILD, Acting P. J.

We concur:

CHANEY, J.

JOHNSON, J.