

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

----

THE PEOPLE,

Plaintiff and Respondent,

v.

JASON RAYMOND BRANNIGAN,

Defendant and Appellant.

C067460

(Super. Ct. No.  
09F06130)

Defendant Jason Raymond Brannigan was convicted of, among other things, corporal injury to a cohabitant, making criminal threats, false imprisonment, and vandalism with damage over \$400.

On appeal, defendant contends (1) the vandalism conviction is not supported by substantial evidence, (2) the \$200 court security fee should be reduced to \$40, and (3) the abstract of judgment should be corrected to reflect that the trial court imposed the middle term on count six (making criminal threats).

The Attorney General agrees that the abstract of judgment should be corrected.

We conclude (1) substantial evidence supports the vandalism conviction, (2) the trial court did not err in imposing the court security fee, and (3) the abstract of judgment should be corrected.

We will affirm the judgment.

#### BACKGROUND

Our summary of the background is limited to the circumstances relevant to defendant's contentions on appeal.

Defendant began to abuse the victim (his girlfriend) a month after he moved in with her and her children. One day in mid-June 2009 they were running errands in her car. Defendant was upset because she talked to another man and became enraged when she would not stop crying. He called her a whore, socked her in the jaw and punched the inside roof of the car, ripping the head liner and popping the sunroof out of its seal.

On the way home, defendant "kept driving crazy." He was "weaving in and out of traffic" and driving at excessive speeds. When defendant turned a corner, the victim heard her car make a "clicking sound" for the first time. After that day, she heard the same clicking sound whenever she drove the car and turned a corner. The car was hard to drive, and it shook on one side when she reached a certain speed.

When the victim took her car in for repair a month or so later, the mechanic told her the "CV joint was busted." The repair cost more than \$500.

Among other things, the jury found defendant guilty of willful infliction of corporal injury on a cohabitant (Pen. Code, § 273.5, subd. (a) -- count one),<sup>1</sup> making criminal threats (§ 422 -- counts two and six), false imprisonment (§ 236 -- count three), and vandalism with damage over \$400 (§ 594, subd. (b)(1) -- count seven). The trial court sentenced defendant to 18 years 8 months in prison, imposed various fines and fees including a \$200 court security fee, and awarded 829 days of custody credit (553 actual and 276 conduct pursuant to section 4019).

#### DISCUSSION

##### I

Defendant contends his felony vandalism conviction is not supported by substantial evidence. We disagree.

When reviewing a claim of insufficiency of the evidence, we evaluate “whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” (*People v. Catlin* (2001) 26 Cal.4th 81, 139.) The evidence must be “reasonable, credible and of solid value from which a rational trier of fact could find the defendant guilty beyond a reasonable doubt.” (*Ibid.*; *People v. Carrington* (2009) 47 Cal.4th 145, 186-187.) We further presume in support of the judgment the existence of every fact the trier

---

<sup>1</sup> Undesignated statutory references are to the Penal Code.

of fact could reasonably deduce from the evidence. (*People v. Catlin, supra*, 26 Cal.4th at p. 139; *People v. Medina* (2009) 46 Cal.4th 913, 919.) Reversal is not warranted unless it appears “that upon no hypothesis whatever is there sufficient substantial evidence to support [the conviction].” [Citation.]” (*People v. Bolin* (1998) 18 Cal.4th 297, 331; *People v. Zamudio* (2008) 43 Cal.4th 327, 357.)

A person who maliciously causes damage to the real or personal property of another is guilty of vandalism. (§ 594, subs. (a), (b) (1); see also *In re Leanna W.* (2004) 120 Cal.App.4th 735, 743.) The word “maliciously” import[s] a wish to vex, annoy, or injure another person, or an intent to do a wrongful act . . . .” (§ 7, subd. 4.)

Defendant argues the victim’s testimony does not establish that he drove unlawfully, intended to damage the victim’s car or otherwise acted with malice. He adds that there is no evidence of a causal connection between his admittedly aggressive driving and significant damage to the victim’s car, and that the damage may have been preexisting.

“Mental state and intent are rarely susceptible of direct proof and must therefore be proven circumstantially.” (*People v. Thomas* (2011) 52 Cal.4th 336, 355.) It is enough that a reasonable jury could have concluded from the circumstantial evidence defendant intentionally drove so as to vex or annoy the victim, or to damage her car. (§ 7, subd. 4.) The victim testified that moments before she first heard the sound indicating damage to her car, defendant threw the car keys at

her, yelled at her and belittled her, hit her in the face, punched the roof of her car and drove her car erratically. Based on this evidence, the jury could reasonably conclude defendant intended to vex or annoy the victim and intended to cause damage to her car. There was ample evidence to support the jury's implicit finding defendant acted maliciously.

Substantial evidence also supports the inference that defendant caused damage to the car in an amount over \$400. After defendant drove the victim's car erratically and at excessive speed, the victim heard for the first time a clicking sound when the car turned a corner. The car became difficult to drive and shook on one side when the victim reached a certain speed. Repairs to the car would cost over \$500. The jury could reasonably conclude from the evidence that defendant's driving caused the damage to the victim's car and that the damage was over \$400. (§ 594, subd. (b)(1).)

## II

The trial court ordered defendant to pay a \$200 court security fee pursuant to section 1465.8, subdivision (a)(1). Defendant contends the fee must be reduced to \$40. He is mistaken.

At the time of his conviction in January 2011, section 1465.8, subdivision (a)(1) provided in relevant part: "To ensure and maintain adequate funding for court security, a fee of forty dollars (\$40) shall be imposed *on every conviction for a criminal offense . . .*" (Italics added.) (Stats. 2010,

ch. 720, § 33.) Defendant was convicted in this case of five criminal offenses; five times \$40 is \$200. There was no error.

### III

The trial court sentenced defendant on count six (making criminal threats) to four years in prison: the middle term of two years, doubled because of defendant's prior serious felony (strike) conviction. The abstract of judgment correctly reflects the imposition of a four-year term on count six, but incorrectly indicates that the trial court imposed the upper term.

Defendant contends, and the People agree, that the abstract of judgment should be corrected to reflect that the sentence imposed on count six is the middle term.

We agree. (*People v. Mitchell* (2001) 26 Cal.4th 181, 185.) We will direct the trial court to correct the abstract of judgment.

We also note that the abstract of judgment should be corrected to reflect that defendant was convicted in count seven of violating section 594, subdivision (b)(1), not subdivision (a).

### DISPOSITION

The judgment is affirmed. The trial court is directed to correct the abstract of judgment to reflect that the sentence imposed on count six is the middle term and that the conviction in count seven violated section 594, subdivision (b)(1). The trial court is further directed to forward a copy of the

corrected abstract of judgment to the California Department of  
Corrections and Rehabilitation.

\_\_\_\_\_ MAURO \_\_\_\_\_, J.

We concur:

\_\_\_\_\_ HULL \_\_\_\_\_, Acting P. J.

\_\_\_\_\_ BUTZ \_\_\_\_\_, J.