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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

TIMOTHY ARIE KOOYMAN,

Defendant and Appellant.

E052853

(Super.Ct.No. RIF10000382)

OPINION

APPEAL from the Superior Court of Riverside County. John M. Davis, Judge.

Affirmed.

Susan L. Ferguson, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Lilia E. Garcia, and Raquel M. Gonzalez, Deputy Attorneys General, for Plaintiff and Respondent.

Defendant and appellant Timothy Arie Kooyman appeals after he was convicted by a Riverside County jury of three counts of animal cruelty (Pen. Code, § 597, subd. (a)). He contends that the current charges should have been barred because they were not united with charges filed in an earlier proceeding in San Bernardino County. He also argues that the trial court erred in failing to suppress evidence of his police interrogations, as he alleges his statements were procured by coercion. We affirm the judgment.

### FACTS AND PROCEDURAL HISTORY

In the spring of 2008, defendant was under investigation for suspected arson and animal cruelty charges. While on patrol, some deputies in the San Bernardino County Sheriff's Department made contact with defendant, in the vicinity of defendant's parked pickup truck, in Rancho Cucamonga on May 13, 2008. The deputies saw blood on defendant's pants. Defendant consented to a search of the truck. In the truck, the deputies found two large plastic containers; one of the containers held two cats with their tails cut off and their limbs broken. The cats were not moving. They had difficulty breathing, and were mewling "very low." The cats' blood, hair and feces were found inside the container and in defendant's truck. The deputies also recovered a pair of bloody scissors and a short ax or hatchet from defendant's truck. One of the deputies found the discarded tails of the injured cats in a nearby yard.

The deputies called animal control to take charge of the injured cats. An animal control officer found that the cats' limbs were limp and broken. The cats could not stand or walk. The cats had bled heavily from their amputated tails. One of the cats had a cut

on its neck. The other cat had cuts around its eye, and one ear was cut. The animal control officer told the deputies about another incident in which a cat had been set on fire. Defendant's pickup truck matched the description of the vehicle involved in that incident. The cats were transported to the veterinary hospital, but they had to be euthanized because they were so severely injured.

Defendant was arrested at the scene and taken into custody. On May 14 and 15 of 2008, San Bernardino deputies conducted extensive interviews with defendant, of about two hours on the first day and three hours on the second day. In the course of the questioning, defendant admitted cutting off the cats' tails and breaking their legs. He explained that he tried to get the two cats to fight each other. Then, he broke their legs by snapping them in half, and cut off their tails with scissors. Defendant did not know why he decided to hurt the cats, but said that he must have gotten some pleasure from it.

Defendant also told the deputies about some other cats he had had at a motel in Corona, in Riverside County. In April of 2008, he had stayed for two weeks at the motel. There, he had had a calico cat, a Siamese cat, and a black and white cat. He lured the cats from the neighborhood with food and captured them.

First, defendant had the calico cat. He became angry at the cat when it defecated on the floor of the motel room. He threw the cat around, and then bent its legs until they broke. He also put a finger into the cat's anus, "to see how the cat would react." Defendant killed the cat by running it over with his car, and then he threw its body over the wall behind a drugstore adjacent to the motel.

Defendant next got the black and white cat. Defendant was upset because the cat would not love him; it cried too much and refused to eat. Defendant broke the legs of this cat also, and decided to kill it. He used an ax to strike the cat in the abdomen, but it did not die, so he decapitated it with the ax. Defendant threw the body over the wall, as before, behind the drugstore.

Defendant's third cat was a Siamese. Defendant decided to hurt this cat for no particular reason. At first, defendant tried to drown the cat in a tub of water. When this did not succeed, defendant cut the cat's stomach with an exacto knife, and also sliced the front of its neck. It took about an hour for the cat to expire. Defendant again dumped the body of the dead cat over the wall behind the drugstore.

A motel employee remembered seeing a cat at one time in the room defendant had rented. After the occupant had checked out, the employee found towels soaked with blood, and feces in the bathroom. There was also some coagulated blood, with hair in it, in the freezer.

Employees of the drugstore found the bodies of three dead cats in the alley behind the store, over a period of one to two weeks. One cat had been decapitated, and another had been gutted; these injuries matched defendant's descriptions of what he had done to the individual cats.

As a result of the investigation, defendant was initially charged in San Bernardino County with several counts of animal cruelty and one count of arson. The defense attorney moved successfully to dismiss three of the charges, based on the three cats

defendant had killed in the Corona motel, because the San Bernardino prosecutor had proceeded to the preliminary hearing without obtaining a jurisdiction letter from Riverside County. As a result, the current charges were dismissed from the San Bernardino County proceedings on July 1, 2008. Defendant entered into a negotiated plea in the San Bernardino case, and he was sentenced to five years in state prison on May 6, 2009.

In February 2010, the Riverside County District Attorney filed a felony complaint alleging three felony counts of animal cruelty (Pen. Code, § 597, subd. (a)), based on each of the three cats defendant killed while he was living in the Corona motel. Defendant moved to dismiss these charges on the ground of double jeopardy, and pursuant to Penal Code section 654, which prohibits harassment by bringing of multiple or successive charges which should be tried together. (See *Kellett v. Superior Court* (1966) 63 Cal.2d 822 (*Kellett*).

Defendant, referring to *Kellett, supra*, and *People v. Britt* (2004) 32 Cal.4th 944, argued that, “[w]hen the prosecution is or should be aware of more than one offense in which the same act or course of conduct plays a significant part, all such offenses must be prosecuted in a single proceeding unless joinder is prohibited or severance is permitted for good cause.” (Citing *Kellett, supra*, 63 Cal.2d 822, 827.) Defendant argued that the California Supreme Court in *People v. Britt, supra*, 32 Cal.4th 944, “expanded the restrictions on improper multiple prosecution.” In *Britt*, the defendant was charged with two different offenses in two different counties, because he was a sex offender who failed

to notify local law enforcement of his move to a new address, and failed to register in the new jurisdiction when he moved. The California Supreme Court held that, even though the two offenses technically occurred in different counties at different times, both offenses were attributable to a single event: one unreported move from one county to another. The evidence as to each offense was largely overlapping, such that the evidence in one trial would have to be repeated in the other. This circumstance ran afoul of the anti-harassment purpose of Penal Code section 654. (*People v. Britt, supra*, 32 Cal.4th 944, 954-955.) Defendant argued in his motion below that, after *Britt*, multiple prosecutions would be prohibited, with only two exceptions: First, the prohibition would not apply if joinder was prohibited or severance permitted for good cause, and second, the prohibition would not apply unless the prosecuting agency was aware of more than one offense. In this case, defendant urged there was no prohibition to joinder of the offenses, as they were of the same class. There was also no violation of the second rule: Both prosecutors had been aware of both sets of offenses. Therefore, defendant contended, all the offenses should have been joined in the first prosecution, and the Riverside County charges should be dismissed as harassing, under Penal Code section 654.

The People opposed defendant's motion. The prosecutor pointed out that the Riverside offenses were based on separate facts and circumstances from those involved in the San Bernardino charges. The offenses were not the result of a single act, intent, or objective. Defendant captured and killed three different cats in Riverside County at

different dates and times, and for different reasons. All the Riverside County offenses had been committed before defendant moved to San Bernardino County, to capture and kill or injure additional cats.

The trial court denied defendant's motion to dismiss on April 20, 2010. The court then set a preliminary hearing, after which defendant was held to answer. The Riverside County information charged defendant with three counts of felony animal cruelty. Count 1 related to the cat that defendant gutted with the scalpel or exacto knife, and alleged that defendant personally used a deadly or dangerous weapon in its commission. Count 2 related to the decapitated cat, and also alleged the personal use of a deadly or dangerous weapon (the ax) in its commission. Count 3 related to the cat that defendant had killed by running it over with his car. No deadly weapon allegation was added to count 3.

Before trial, the prosecution's trial brief indicated an intention to introduce defendant's statements to police. Defendant objected to the proffered evidence on the ground that he suffered from a mental illness and had been deprived of his medication at the time of the extensive interviews. The interviewing officers were aware that defendant was on suicide watch, but took advantage of defendant's mental vulnerability to elicit statements about his conduct. After a hearing under Evidence Code section 402, the trial court ruled that the interviews were admissible. The court did place some restrictions on the evidence to be admitted, however. For example, the court ordered that the People make no reference to arson, or to a cat that defendant had allegedly burned.

After a jury trial, defendant was convicted on all counts; the jury also found true the special allegations with respect to counts 1 and 2. In January of 2011, the trial court sentenced defendant to a total term of two years eight months in state prison, to be served consecutively to the five-year term he had received in the San Bernardino case.

Defendant filed a notice of appeal from the judgment.

### ANALYSIS

#### I. The Riverside County Trial Did Not Violate the Multiple Prosecution Proscription of Penal Code Section 654

Defendant contends that the current crimes were barred from prosecution in Riverside County, under both the due process clause of the Fourteenth Amendment,<sup>1</sup> and Penal Code section 654, because the San Bernardino County prosecutor failed to unite both sets of charges in one proceeding.

“On appeal, we review factual determinations under the deferential substantial evidence test, viewing the evidence in the light most favorable to the People. [Citation.] We review de novo the legal question of whether section 654 applies. [Citation.]”  
(*People v. Valli* (2010) 187 Cal.App.4th 786, 794.)

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<sup>1</sup> Although defendant denominates his contention in terms of due process under the Fourteenth Amendment, he devotes no argument to the particulars of his due process claim, other than the same policies and considerations—the prohibition against harassment of defendants and waste of public moneys through successive prosecutions—as are identified in and supported by Penal Code section 654. The due process argument is, effectively, subsumed into the discussion of the statutory claim. Defendant does not phrase the claim, as he did in the title of his motion below, in terms of double jeopardy. Defendant articulated no distinct double jeopardy claim in his motion in the trial court.

Defendant contends that, in *People v. Britt, supra*, 32 Cal.4th 944, the California Supreme Court rejected a simplistic “different time/different place” model for applying *Kellett, supra*, and Penal Code section 654. Yet the prosecutor and the trial court below appear to have argued and accepted exactly such a formulation in respectively opposing and denying defendant’s motion to dismiss.

In *People v. Valli, supra*, 187 Cal.App.4th 786, the Third District Court of Appeal noted the history of the multiple prosecution prong of Penal Code section 654, and its interpretation in *Kellett, supra*. In *Kellett* itself, the defendant had committed only one act—standing on the sidewalk with a gun. He was prosecuted by the same charging authority, first with brandishing a firearm, and second, in a separate proceeding, with being a felon in possession of a firearm. The California Supreme Court issued the writ prohibiting the second prosecution as violative of the anti-harassment policy underlying Penal Code section 654.

“Construing sections 654 and 954 in the context of the constitutional requirement of fundamental fairness, the court stated: ‘If needless harassment and the waste of public funds are to be avoided, some acts that are divisible for the purpose of punishment must be regarded as being too interrelated to permit their being prosecuted successively. When there is a course of conduct involving several physical acts, the actor’s intent or objective and the number of victims involved, which are crucial in determining the permissible punishment, may be immaterial when successive prosecutions are attempted. “‘When, as here, the prosecution is or should be aware of more than one offense in which the same

act or course of conduct plays a significant part, all such offenses must be prosecuted in a single proceeding unless joinder is prohibited or severance permitted for good cause. Failure to unite all such offenses will result in a bar to subsequent prosecution of any offense omitted if the initial proceedings culminate in either acquittal or conviction and sentence.’ (*Kellett, supra*, 63 Cal.2d at p. 827, fn. omitted.)” (*People v. Valli, supra*, 187 Cal.App.4th 786, 795-796.)

The *Valli* court noted that, “Whether *Kellett* applies must be determined on a case-by-case basis. (*People v. Britt*[, *supra*,] 32 Cal.4th 944, 955.) Appellate courts have adopted two different tests to determine a course of conduct for purposes of multiple prosecution.” (*People v. Valli, supra*, 187 Cal.App.4th 786, 797.)

One line of cases holds that *Kellett* is “not applicable where the offenses are committed at separate times and locations.” (*People v. Valli, supra*, 187 Cal.App.4th 786, 797.) The *Valli* court rejected that line of cases in favor of a more subtle interpretation. “[W]e believe *Kellett* is not necessarily a simple ‘different time/different place’ limitation.” (*Id.* at p. 798.) In *People v. Britt, supra*, 32 Cal.4th 944, for example, the California Supreme Court had barred successive prosecutions even though the charged offenses had occurred, strictly speaking, on separate occasions and in different counties. There was, however, “but a single course of conduct—one unreported move.” (*People v. Valli, supra*, at p. 798.)

The *Valli* court adopted a “second test . . . set forth in *People v. Flint* (1975) 51 Cal.App.3d 333 (*Flint*), where a prosecution for grand theft auto and felony joy riding

was barred after a prosecution for driving under the influence of alcohol. The court found various cases on *Kellett* could be harmonized by considering the totality of the facts and whether separate proofs were required for the different offenses. (*Flint, supra*, at pp. 337-338.) ‘Neither the purpose of the rule—prevention of needless harassment and waste of public funds; nor the criterion for its applicability—whether the same act or course of conduct plays “a significant part” with respect to each crime—suggests that its applicability in a particular case depends on abstract definitions of the elements of the respective crimes or on the precise moment when, as a matter of law, one crime was completed. What matters, rather, is the totality of the facts, examined in light of the legislative goals of [Penal Code] sections 654 and 954, as explained in *Kellett*.’ (*Id.* at p. 336, fn. omitted.) The court found ‘the same incident which furnished the evidence that defendant was driving in an intoxicated condition, also supplied proof that what he was driving was an automobile he had stolen.’ (*Id.* at p. 338.)” (*People v. Valli, supra*, 187 Cal.App.4th 786, 798-799.)

Defendant here contends that applying the *Kellett* rule according to the *Valli* and *Flint* formulation would require that the Riverside County charges be dismissed. He contends that the “totality of the facts,” when considered in connection with the purposes of Penal Code sections 654 and 954 (broadening joinder of cases so as to prevent harassment and waste of resources), show that “the instant prosecution depended almost entirely on recycling the same evidence that formed the basis for the first prosecution.”

We disagree. Unlike *Kellett* and *Britt*, the charges brought against defendant in San Bernardino County and the separate charges later brought in Riverside County did not stem from a single act, or even a single course of conduct. Each of the offenses did have elements in common, but the facts as to each offense were independent from all the other offenses. Defendant is able to maintain the argument that the offenses “depended on the introduction of the same proofs,” only in the very broadest sense of “the confession and Evidence Code Section 1101(b) evidence,” or that “[a]ll of the[] charges stemmed from [defendant’s] arrest, the search of his vehicle, and his confession in the subsequent days.” Defendant completely ignores, however, that the facts relating to each charge were different. Proof that defendant drowned and gutted the Siamese cat was not the same as the proof that he decapitated the black and white cat. Proof as to the decapitated cat involved wholly different facts from proof that defendant beat up, broke the legs of, and then ran over the calico cat. The facts relating to the San Bernardino charges (defendant broke the legs and cut the tails of the two cats found in his truck) were again separate and independent from the facts proving the elements of the Riverside charges. The “other crimes” evidence involving the San Bernardino charges was not merely a repetition of the same proof in both cases, but was proffered to support the inference that defendant’s mistreatment of the calico, black-and-white, and Siamese cats was intentional, and not a matter of mistake.

We also draw support from *People v. Marlow* (2004) 34 Cal.4th 131. There, the defendant was tried first and convicted of the murder of one victim in Orange County.

Later, the defendant was tried and convicted in San Bernardino County of the murder of a different victim. Although both murders occurred within a relatively short time of one another, the California Supreme Court categorically rejected the defendant's claims of error in failing to join both cases in a single proceeding. The court held that *Kellett* was not controlling. The murders of different victims on different days in different counties was not a single act or a single course of conduct which would require joinder in a single prosecution. (*People v. Marlow, supra*, at pp. 133-134.)

Defendant's claim that "*Kellett* can apply even when the crimes stem from conduct that took place on multiple dates," is also misplaced. The salient case, *In re Farr* (1976) 64 Cal.App.3d 605, 608-612, 615-616, involved multiple proceedings for contempt against a journalist for a single, continuing course of conduct: The journalist steadfastly refused to name his sources. That conduct may have taken place on more than one date, but the conduct consisted of essentially one act. Here, by contrast, all the charged offenses, both those prosecuted in San Bernardino and those prosecuted in Riverside, were founded upon different, independent acts and facts. Defendant may have had similar intents or motivations, but his actions were independent and distinct as to each cat he killed or maimed.

Defendant argued below that *Kellett* "does not apply if 'joinder is prohibited or severance permitted for good cause,'" (citing *Kellett, supra*, 63 Cal.2d 822, 827), but that "the first bar to multiple prosecution does not apply," because the offenses were all of the same class or had common characteristics and attributes, such that they could have been

joined under Penal Code section 954. However, defendant himself in the San Bernardino proceedings objected to the joinder of the Riverside County offenses, because of a lack of jurisdiction. He successfully moved to dismiss the Riverside offenses on that ground. Thus, the joinder of the Riverside offenses was procedurally prohibited, or they were properly severed (dismissed) for good cause. Defendant cannot now be heard to complain that the court wrongly granted his motion to dismiss in the San Bernardino case.

Under Penal Code section 654 and *Kellett, supra*, the trial court properly denied defendant's motion to dismiss the instant charges on the ground of improper multiple proceedings. The evidence and facts relating to the Riverside County charges were different and independent from the evidence and facts relating to the San Bernardino County charges. Defendant was properly tried on both sets of offenses.

## II. Defendant's Confessions Were Voluntary

Defendant contends that he suffers from a mental illness and that, after he was arrested, he was deprived of the proper medication to treat his mental illness. Defendant further contends that the officers who interrogated him took advantage of his impaired mental state to coerce a confession. Thus, defendant argues that the trial court erred in allowing the prosecution to introduce the evidence of defendant's statements to police, because they were not voluntary. Defendant made no claim below, and makes none here, that he did not understand the *Miranda* advisements or that he did not knowingly and intelligently waive those rights in deciding to talk to the officers. Rather, the gravamen

of his claim is that the officers took advantage of his mental disability and his lack of medication to manipulate or compel his confessions.

“An involuntary confession may not be introduced into evidence at trial. (*Lego v. Twomey* (1972) 404 U.S. 477, 483 [30 L.Ed.2d 618, 92 S.Ct. 619].) The prosecution has the burden of establishing by a preponderance of the evidence that a defendant’s confession was voluntarily made. (*Id.* at p. 489; *People v. Williams* (1997) 16 Cal.4th 635, 659.) In determining whether a confession was voluntary, “[t]he question is whether defendant’s choice to confess was not ‘essentially free’ because his [or her] will was overborne.” (*People v. Massie* (1998) 19 Cal.4th 550, 576.) Whether the confession was voluntary depends upon the totality of the circumstances. (*Withrow v. Williams* (1993) 507 U.S. 680, 693-694 [123 L.Ed.2d 407, 113 S.Ct. 1745]; *People v. Massie, supra*, 19 Cal.4th at p. 576.) ““On appeal, the trial court’s findings as to the circumstances surrounding the confession are upheld if supported by substantial evidence, but the trial court’s finding as to the voluntariness of the confession is subject to independent review.”” (*People v. Holloway* (2004) 33 Cal.4th 96, 114.)” (*People v. Carrington* (2009) 47 Cal.4th 145, 169.)

“In evaluating the voluntariness of a statement, no single factor is dispositive. (*People v. Williams*[, *supra*,] 16 Cal.4th 635, 661 [rejecting the view that an offer of leniency necessarily renders a statement involuntary].) The question is whether the statement is the product of an “essentially free and unconstrained choice” or whether the defendant’s “will has been overborne and his capacity for self-determination

critically impaired” by coercion. (*Schneckloth v. Bustamonte* (1973) 412 U.S. 218, 225 [36 L.Ed.2d 854, 93 S.Ct. 2041].) Relevant considerations are “the crucial element of police coercion [citation]; the length of the interrogation [citation]; its location [citation]; its continuity” as well as “the defendant’s maturity [citation]; education [citation]; physical condition [citation]; and mental health.” [Citation.] ¶ ‘In assessing allegedly coercive police tactics, “[t]he courts have prohibited only those psychological ploys which, under all the circumstances, are so coercive that they tend to produce a statement that is both involuntary and unreliable.” [Citation.]’ [Citation.] ¶ A confession is not involuntary unless the coercive police conduct and the defendant’s statement are causally related. (*Colorado v. Connelly* (1986) 479 U.S. 157, 164, fn. 2, 167 [93 L.Ed.2d 473, 107 S.Ct. 515] . . . .)” (*People v. Williams* (2010) 49 Cal.4th 405, 436-437.)

On May 14, 2008, the day after his arrest, defendant was interviewed by Deputy Alonzo Daniel and other officers. Deputy Daniel was aware that defendant was on suicide watch at the time of the interview. Defendant was wearing a special, marked, suicide watch garment. Deputy Daniel did not remember whether the arresting officer had informed him that defendant had stated he “wasn’t in his right mind to speak to [the arresting officer],” and he did not inquire any further about why defendant had been placed on suicide watch. Defendant did tell Deputy Daniel that he was “just depressed over what had occurred.”

The interrogation on May 14, 2008, lasted for approximately two hours. Defendant seemed to be aware of his surroundings, and was calm throughout the

questioning. Defendant had been read his rights, and indicated that he understood his rights and was willing to talk to the officers. Defendant did not answer questions in an inappropriate way.

Deputy Daniel took part in a further interrogation on May 15, 2008. This interrogation took place partly at the sheriff's station, and partly in the field; defendant agreed to show the officers the areas where he had committed some of the crimes. As before, defendant seemed aware of his surroundings, and continued to respond appropriately to questions.

The first interview, on May 14, had focused primarily on investigation into fires, both an incident in which defendant had lit a cat on fire, and other incidents of fire-setting in the Mt. Baldy area. Defendant admitted burning the cat, but denied involvement in any other fires. Defendant was able to give detailed descriptions of his actions with respect to the cats, as well as to "clearly deny any of the previous fires."

At the second interview, defendant was no longer dressed in special suicide watch garb. The second interview lasted between two and one-half to three hours. The video and transcript of defendant's interview on May 15 did show that defendant was shaking at some times during the proceeding. Defendant said his hands were wet and he was suffering from anxiety because he had not had his medication. Defendant also spent portions of the interview expounding on topics of science, astrophysics, space travel, war, and other extraneous matters. At one point, defendant said that he believed that the officers had been sent to him by God, or perhaps from another universe. Defendant also

remarked that he felt that the devil was in him, or that he had an “evil side” that he could not control. Defendant said that he was bipolar, and was “afraid [he would] destroy the entire solar system.” The detectives reassured defendant that they had been sent by God, and that they would not judge defendant. Deputy Daniel also told defendant that he wanted to help defendant, and that he would not think less of defendant for the things that he had done.

Defendant contends that the circumstances of the interviews show that defendant “appear[ed] to be in the midst of a psychotic break from reality, [that he was] without psychiatric medication for two days, [that he was] on suicide watch, and [he] believe[d] that police [were] angels from God or ‘from another universe.’” Defendant urges that any interrogation in such circumstances is coercive. “Pretending to actually be an angel from God who means [defendant] no harm, is deceptive and constitutes police overreaching.”

We must look, however, to the totality of—i.e., *all*—the circumstances. Police tactics of using deception is not necessarily coercive. The question is whether the deception is reasonably likely to produce an untrue statement. (*People v. Williams, supra*, 49 Cal.4th 405, 443.) “‘The courts have prohibited only those psychological ploys which, under all the circumstances, are so coercive that they tend to produce a statement that is both involuntary and unreliable.’” (*People v. Jones* (1998) 17 Cal.4th 279, 297-298.) In *People v. Hogan* (1982) 31 Cal.3d 815 (overruled on another point in *People v. Cooper* (1991) 53 Cal.3d 771), for example, the police falsely told the defendant that they

had incriminating evidence which they did not have, and then suggested that the defendant had blackouts, and might not remember what he had done. The officers caused the defendant to doubt his own sanity, and then they promised to get him help for his alleged mental condition. (*Id.* at p. 841.) Such deception, coupled with the promises of help (leniency) for a perhaps nonexistent mental illness, was sufficient to render the statements involuntary. Here, there was no deception of a character likely to induce defendant to make an untrue statement. The officers' "deception"—their acceptance of defendant's suggestion that they had been brought into defendant's life for a reason—was part and parcel of their general encouragement to defendant to tell the truth. "When the benefit pointed out by the police to a suspect is merely that which flows naturally from a truthful and honest course of conduct, we can perceive nothing improper in such police activity." (*People v. Hill* (1967) 66 Cal.2d 536, 549; accord, *People v. Jimenez* (1978) 21 Cal.3d 595, 611-612; *People v. Vance* (2010) 188 Cal.App.4th 1182, 1212.)

Throughout the interviews here, defendant carried on a conversation and responded rationally to many questions. He described how he was living in his truck, explained where he had gone, how he had spent his time, and what he did. The officers did not threaten defendant or shout at him, but rather soothed him and encouraged him to relieve his conscience by telling them what he had done. There was nothing coercive in the officers' demeanor. Their tactics were simply to encourage defendant to open up, to tell more details about what he had done with, specifically, the cats, and to help himself feel better by admitting what he had done. "“[M]ere advice or exhortation by the police

that it would be better for the accused to tell the truth when unaccompanied by either a threat or a promise does not render a subsequent confession involuntary.” [Citations.]” (*People v. Carrington, supra*, 47 Cal.4th 145, 174.) Although the questioning took place over several hours on two different days, there were breaks in between portions of the interviews. A lengthy interrogation may be coercive in some circumstances (see *Mincey v. Arizona* (1978) 437 U.S. 385, 398-399 [57 L.Ed.2d 290, 98 S.Ct. 2408]), but there is no indication here that defendant’s will was overborne. He answered questions readily and topically; despite some of his “scientific” asides, defendant was generally lucid in describing where he had been and what he had done. Defendant was able to take the officers to the locations where he had killed the cats. The details that defendant described matched with the observations of other witnesses; the drugstore employees found three dead cats in the place that defendant said he had disposed of them. The condition of each of the dead cats corresponded precisely with defendant’s description of how he had killed the cats. The officers recovered weapons from defendant’s vehicle which accorded with his account of how he had killed the cats. Defendant was able to exercise his free will to say no to a number of questions, or to disagree with the officers’ suggestions about defendant’s actions or circumstances. For example, defendant at first deflected Deputy Daniels’s questions about the cats in the Corona motel, and then decided to admit that he had killed one of the cats. He also denied setting a fire that the officers asked him about. He could not remember what had happened to a kitten that he had taken camping with him, although he eventually admitted taking that cat to a motel and killing it. Defendant

denied that smoking marijuana exacerbated his “evil side,” saying instead that, “I calm down when I smoke.” He also categorically denied doing anything of a sexual nature with the cats.

Under the totality of the circumstances, defendant’s admissions about what he had done to the cats in Corona was neither involuntary nor unreliable. Rather, defendant clearly exercised his will in determining what he would talk about, the answers he gave to the officers’ questions, as well as the details of what he admitted. The admissions matched precisely with the observations of the independent witnesses, who had seen the aftermath of defendant’s activities. His memory of where he had gone and where and how he had disposed of the cats’ remains accurately reflected the independent observations of others. Defendant’s admissions also corresponded with the tools or instruments that had been recovered from his vehicle. Defendant never contested that he was able to rationally understand and waive his *Miranda* rights. The trial court’s findings as to the facts were supported by substantial evidence. (See *People v. Weaver* (2001) 26 Cal.4th 876, 921.) We conclude, based on those factual findings and the reasonable inferences therefrom, that the officers did not act coercively, and defendant’s admissions were voluntary. The trial court did not err in admitting defendant’s statements into evidence.

DISPOSITION

The judgment is affirmed.

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MCKINSTER  
J.

We concur:

RAMIREZ  
P. J.

MILLER  
J.