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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.

JARRICK EARL DENEWILER,

Defendant and Appellant.

E054211

(Super.Ct.No. INF1100295)

OPINION

APPEAL from the Superior Court of Riverside County. Steven G. Counelis,
Judge. Affirmed.

John F. Schuck, 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, Peter Quon, Jr., and Christopher P.
Beesley, Deputy Attorneys General, for Plaintiff and Respondent.

I

INTRODUCTION¹

A jury convicted defendant Jarrick Earl Denewiler of eight criminal counts involving two incidents of domestic violence. The court sentenced defendant to 13 years in prison.

On appeal, defendant challenges his convictions on count 4 for misdemeanor child abuse (§ 273a, subd. (b)) and on count 7 for criminal threats (§ 422). He also contends the court erred by denying his *Marsden*² motion and he challenges a statutory booking fee under the Government Code. We reject these contentions and affirm the judgment.

II

FACTUAL BACKGROUND

A. *Prosecution Evidence*

Defendant had been living with Heather W. in Blythe since 2003. They have two children, a four-year-old son and a two-year-old daughter. Defendant was paranoid about being spied upon and he set up surveillance cameras in their residence.

During Heather's first pregnancy in 2006, defendant abused her almost daily. Defendant grabbed Heather violently, threw her to the floor, choked her, and threatened to kick her in the stomach. The physical abuse caused Heather to have seizures and be hospitalized. Defendant was suspicious that Heather was sleeping with the doctors. He

¹ All statutory references are to the Penal Code unless stated otherwise.

² *People v. Marsden* (1970) 2 Cal.3d 118.

limited her contact with friends.

1. August 30, 2009

On August 30, 2009, defendant and Heather began arguing and upsetting the children. Heather ran into the bedroom and got on the bed. Defendant followed her into the bedroom and began choking her and knocking her down. Defendant would not let Heather leave for about two hours because he claimed she was “a risk.” Heather called defendant’s mother to tell her what had happened.

On the same day, defendant had slapped their son twice on the head for bouncing around while watching a movie.

Later in the evening, defendant and Heather were arguing again. Heather was frightened by defendant’s delusional statements: “Do you know who I am? I’m the wolf. And Molon Labe, the blood will be on your hands.”³ When Heather tried to telephone defendant’s mother or the police, defendant grabbed her, choked her, and hit her head and eye. One of the home surveillance cameras recorded the altercation. The recording was played for the jury with Heather narrating. Defendant finished by saying, “Look at you, you dumb bitch. You just made problems worse.” Defendant had warned Heather that if anything happened to their son, he would kill her. She believed him because he constantly acted violently towards her.

³ In an email to Heather, defendant wrote about “Molon Labe.” Defendant explained that Molon was a powerful warrior and Molon Labe is a stain that represents blood on the hands of an emperor: “If you live by the law, you die by the law. If you live by Molon Labe, you die by Molon Labe. [¶] . . . [¶] I am the wolf and I practice Molon Labe and you have no fucking idea what my capabilities are.”

When the responding deputies arrived, defendant would not open a locked perimeter gate and they had to jump over the barrier.

Deputy sheriff Jose Michel testified that he responded to a call from defendant's residence on August 30, 2009. Heather could not open the locked gate. Defendant was yelling profanities and racial epithets and refused to open the gate. The deputy jumped the fence and, while defendant backed away, the deputy ordered him on the ground and handcuffed him. Deputy Michel interviewed Heather who was distraught and displayed faint bruises on her eye and face and fresh bruises on her chest, neck, shoulders, and ribs. Another deputy photographed Heather's injuries.

2. Defendant's Father

Defendant's father testified that Heather and the children came to live with him after the 2009 incident. Heather had a black eye and facial abrasions. The children were scared and confused. Defendant would telephone Heather from jail and harangue Heather about the content of her statements to law enforcement. Defendant persisted harassing Heather until she became catatonic and in a fetal position on the floor and had to be treated medically. When defendant's father picked defendant up after he was released from jail, defendant showed his father a videotape of the altercation.

3. August 20, 2010

On the evening of August 20, 2010, Heather had put an episode of "Dora the Explorer" on the television. Defendant became hysterical, yelling, "Get that shit off the TV. That's defiling our children, medically speaking, our son." Defendant replaced "Dora" with the movie "Rambo" and told Heather, "See this is me. This is about my life.

This is about our life.”

When Heather got a soda, defendant demanded, “Why the hell are you drinking some soda? Don’t you know there’s poison in there?” He added, “drink it and kill our daughter.” Defendant believed he was “the town emperor, the wolf” and that people were trying to kill his family by poisoning their food and drink. The situation escalated when Heather tried to call defendant’s mother and he knocked the telephone out of her hand, grabbed her by the neck, threw her to the ground, and hit and choked her while their children watched in distress. At one point, Heather left the house. When she returned defendant again hit, choked, and dragged her. He called her a “fucking bitch, whore.” He applied the “dead touch that can instantly make someone internally bleed” and Heather lost consciousness briefly. Finally, Heather left the house to get help. She thought defendant would have killed her if her children had not intervened by jumping on him. Her throat hurt for three days. The jury also watched a recording of the 2010 incident as narrated by Heather.

Defendant placed a call to the 911 emergency dispatcher that was played for the jury. Defendant told the dispatcher Heather had left the house and abandoned her children because she was psychotic. Defendant claimed Heather had been physically violent and he had to restrain her. He accused Heather of having sex with the deputies.⁴

Deputy Jason Rodriguez made contact with Heather who was hysterical and crying and displayed a fresh abrasion on her neck. Deputy Rodriguez, Sergeant Thomas

⁴ It is not clear from the record how much more of the 911 call was played for the jury.

Velarde, and Deputy Robert Johnston went to the residence and defendant refused to meet with them and was belligerent. Rodriguez knew there were children in the house. The officers cut the lock on the gate to gain entry and forced their way into the residence. Defendant tried to kick Johnston in the hand and Johnston sustained a cut from the screen door. The officers subdued and handcuffed defendant. With Heather's permission, the officers obtained video footage from the home surveillance cameras.

While in the back of the patrol car, defendant raged at Sergeant Velarde, threatening, "I'm gonna fuck you up major. You know what I'm going to do to you? I'm gonna take your gun from you. I'm gonna take your badge from you. . . . I'm gonna pull out a taser and attempt to tase you and then I'm gonna fucking crash your fucking skull all over your floor in your room. 'Cause that's what you did to my kingdom right there. You destroyed it. So I'm gonna destroy your kingdom. If that's your fucking head? It's fucking crushed. [¶] . . . [¶] . . . I'll record your fucking death! . . . You're fucking dead. You are so fucking dead! Your fucking ass is fucking dead. I'm gonna fucking kill you." Sergeant Velarde interpreted "kingdom" to mean his family and coworkers. Velarde felt threatened and experienced sustained fear because he believed what defendant was saying.

When Deputy Johnston transported defendant to the hospital, defendant screamed at him repeatedly. Defendant tried to kick Johnston and trip him. Defendant wrapped his legs around Johnston and they both fell to the ground. As described by Johnston, defendant made numerous threats to him, including "killing me with an MP5, . . . killing

me over and over again for two years, putting me on a drip system, and then re-killing me again [and] bringing me back to life and re-killing me again.”

B. Defendant's Testimony

Against the advice of counsel, defendant offered his own version of events and what was shown in the videotapes. Regarding the August 30, 2009, incident, defendant claimed that Heather had taunted him by threatening to call his mother. When he tried to take the telephone away from her, she caught him off balance and knocked him over so they both fell down. The telephone rang and the caller asked for Heather who reported defendant had hit her. Defendant packed some items and went into the garage until Deputy Michel arrived. Defendant believed the deputies were trespassing when they jumped the fence onto defendant's property.

During the second incident on August 30, 2010, the family was watching television until there was the conflict over the telephone. Defendant claimed he had to restrain Heather after she hit him. Defendant did not remember the events depicted in the video, which did not show Heather's purported initial attack. Defendant disputed the legitimacy of the video.

Defendant denied striking, hitting, strangling, or punching Heather. Once defendant had removed a knife and CD case from her so she could not hurt herself and he pulled her hair in doing so. Defendant thought Heather was bruised during their struggle.

Defendant disciplined his children with time-outs and by removing toys. Once when his son jumped on his head, defendant raised up his hands or arms in surprise. He grabbed his son and told him to stop.

Defendant said Heather lost the gate keys twice but she had access to spare keys. Defendant maintained Heather had friends with whom they socialized.

Defendant tried to explain why he had been so upset with the police, causing him to rant furiously at them.

Defendant admitted he had supplied the defense attorney with footage of the 2009 incident. Defendant denied he had ever coached Heather or told her to lie. Instead, he tried to help her organize her statement chronologically. Defendant admitted editing and composing Heather's statements about what had occurred in 2009.

On December 25, 2010, defendant posted a photograph on Facebook of Deputy Michel tugging on Heather who was holding their daughter. Defendant's comment read: "Hey pig motherfucker, I'm going to get a gun, a badge and go into your house and arrest you, and then I'm going to take you and everything you hold dear and defile your kingdom, and then we will be even."

According to defendant and his family, defendant was diagnosed in 1998 with schizophrenia, for which he requires medication.

C. Additional Information

Heather did not seek medical attention after either incident. When Heather testified at the preliminary hearing, she did not tell the truth because defendant had threatened her and forced her to falsify her statements in a series of letters.

III

CRIMINAL THREATS AGAINST VELARDE

Defendant challenges the sufficiency of the evidence to support his conviction on

count 7 for making criminal threats against Sergeant Velarde during the 2010 incident. Defendant argues he was not making criminal threats but was engaging in an intemperate tirade brought on by the circumstances. His “diatribe was actually a reflection of his frustration and lack of understanding. It was not an actual criminal threat against the officer.” We disagree.

“The standard of appellate review of the sufficiency of the evidence to support a jury verdict is settled. ‘In assessing a claim of insufficiency of evidence, the reviewing court’s task is to review the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence—that is, evidence that is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. (*People v. Johnson* (1980) 26 Cal.3d 557, 578.) . . . The standard of review is the same in cases in which the prosecution relies mainly on circumstantial evidence. (*People v. Stanley* (1995) 10 Cal.4th 764, 792 [42 Cal.Rptr.2d 543, 897 P.2d 481].) “‘Although it is the duty of the jury to acquit a defendant if it finds that circumstantial evidence is susceptible of two interpretations, one of which suggests guilt and the other innocence [citations], it is the jury, not the appellate court[,], which must be convinced of the defendant’s guilt beyond a reasonable doubt. “‘If the circumstances reasonably justify the trier of fact’s findings, the opinion of the reviewing court that the circumstances might also reasonably be reconciled with a contrary finding does not warrant a reversal of the judgment.’” [Citations.]’” (*Id.* at pp. 792-793.)’ (*People v. Rodriguez* (1999) 20 Cal.4th 1, 11.)” (*People v. Story* (2009) 45 Cal.4th 1282, 1296.)

“The reasonableness of a victim’s fear is an element of the completed crime of criminal threat as defined by section 422.[.] The elements of the completed crime are: (1) The defendant willfully threatened to commit a crime that will result in death or great bodily injury to another person. (2) The defendant had the specific intent that the statement be taken as a threat. (3) The threat was on its face and under the circumstances “so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat.” (4) The threat caused the victim “to be in sustained fear for his or her own safety or for his or her immediate family’s safety.” (5) The victim’s fear was reasonable under the circumstances. ([*People v. Toledo* (2001) 26 Cal.4th 221,] 228; see § 422.)” (*People v. Jackson* (2009) 178 Cal.App.4th 590, 596.)

In *People v. Wilson* (2010) 186 Cal.App.4th 789, 805-819, cited by defendant, the Fifth District performed a detailed and comprehensive analysis of the sufficiency of evidence for criminal threats, particularly in a custodial situation. Like the *Wilson* court, we conclude that defendant’s conviction for making criminal threats against Sergeant Velarde is supported by substantial evidence based on the five factors required to prove the offense.

Defendant willfully threatened to inflict death or great body injury when he said he planned to “crash your fucking skull” and “kill every fucking one of you motherfuckers!” Defendant repeated his threats multiple times, including frightening references to “dead pigs,” “wolves,” extermination, “Judgment Day,” MP5, and firing “eight hundred rounds.”

Defendant made his threats with the specific intent that his statements would be taken as threats. We also find defendant's threats were "so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat." (*People v. Toledo, supra*, 26 Cal.4th at p. 228.) Defendant's conviction is supported by substantial evidence because he unequivocally announced that he—assisted by others—would carry out his threats as soon as possible, thus giving the threat specificity and immediacy because he would perform the act as soon as he was set free. (*People v. Wilson, supra*, 186 Cal.App.4th at p. 814.) Furthermore, defendant's threat caused Sergeant Velarde reasonably to be in sustained fear for his life because Sergeant Velarde was convinced of the seriousness of defendant's purpose. (*Id.* at pp. 814-815.) For these reasons, the record amply demonstrates evidence from which the jury could conclude that defendant threatened Velarde with more than emotional outbursts and idle boasts. Substantial evidence supported defendant's conviction for criminal threats against deputy Velarde.

IV

CHILD ABUSE

Defendant argues the trial court erred by not giving a unanimity instruction, CALCRIM No. 3500, on count 4 for child abuse against defendant's son. Defendant identifies four discrete acts constituting child abuse: 1) Heather testified that defendant hit their son on the head after the boy bumped him; 2) Heather also testified that defendant applied the "death touch" to the boy; 3) defendant's paranoia about poisoned food made his son scared to eat and caused "watery diarrhea" and a nutritional

imbalance; 4) finally, defendant's son witnessed defendant's physical abuse of Heather. The prosecutor mentioned all four acts in closing argument but did not elect any one of them as the basis for count 4. We reject defendant's claim of error.

“A requirement of jury unanimity typically applies to acts that could have been charged as separate offenses. [Citations.] A unanimity instruction is required only if the jurors could otherwise disagree which act a defendant committed and yet convict him of the crime charged. [Citation.]” (*People v. Maury* (2003) 30 Cal.4th 342, 422-423.) A unanimity instruction is *not* required where there is “a continuous course of conduct, whose acts were so closely connected in time as to form part of one transaction. [Citations.]” (*id.* at p. 423), or where the crime, like abuse, can consist of a continuous course of conduct. (*People v. Napoles* (2002) 104 Cal.App.4th 108, 115-116, citing *People v. Rae* (2002) 102 Cal.App.4th 116, 122 and *People v. Sanchez* (2001) 94 Cal.App.4th 622, 631.)

Child abuse may be charged as a continuous course of conduct or a single act. If the prosecution proves multiple unlawful acts, a unanimity instruction is not required where the acts constitute a continuous course of conduct violating section 273a. (*People v. Napoles, supra*, 104 Cal.App.4th at pp. 115-116.)

Defendant was charged with felony child endangerment of his son under section 273a, subdivision (a), on August 30, 2009. The evidence showed that defendant struck his son on the head when the boy bumped into him. The child was present on the same day when defendant hit and choked Heather. During the same time, the child was continuously fearful about eating poisoned food while defendant threatened the child

with applying the “death touch.” Defendant’s father testified that when Heather and the children sought refuge with him, the children were fearful and clinging and scared to eat, refusing some foods.

These facts demonstrate a continuous course of conduct qualifying as misdemeanor child abuse under section 273a, subdivision (b). Defendant’s conduct toward his son reflected a ““pattern of physical trauma inflicted upon a child within a relatively short period of time,”” meaning there was no requirement for jury unanimity on a single act. (*People v. Napoles, supra*, 104 Cal.App.4th at p. 116; *People v. Vargas* (1988) 204 Cal.App.3d 1455, 1462 [10-day course of injuries]; *People v. Ewing* (1977) 72 Cal.App.3d 714, 717 [three-month course of injuries].) No prejudicial error resulted from the omission of a jury instruction.

V

Marsden Hearing

Defendant protests the court’s summary denial of a *Marsden* hearing after the close of evidence on May 27, 2011. Respondent counters that defendant never expressly asked for substitute counsel and he forfeited the issue on appeal.

Two days earlier on May 25, 2011, the court had conducted a confidential hearing with defendant and his counsel and without the prosecutor regarding defendant’s claim that the video of the 2010 incident had been edited. Defendant requested a special investigator testify about the video’s authenticity but defense counsel asserted the video was authentic. The court denied any *Marsden* motion at that time.

Later, on May 27, 2011, defendant requested “a *Marsden*” and repeated his concerns about the video’s authenticity and his attorney’s “capacity to understand a computer.”

It is an abuse of discretion to deny defendant an opportunity to explain the reasons for a *Marsden* request. (*People v. Burton* (1989) 48 Cal.3d 843, 855.) The trial court must hear “defendant’s complaints about his attorney.” (*People v. Wright* (1990) 52 Cal.3d 367, 410.)

In the present case, defendant’s *Marsden* request was arguably not clear and unequivocal. (*People v. Rivers* (1993) 20 Cal.App.4th 1040, 1051.) Here defendant apparently did not seek to have new counsel appointed. Instead, he wanted to have a special investigator to analyze and to testify about tampering with the 2009 video. Defendant complained about his lawyer’s computer skills and his trial tactics but defendant did not seek different counsel. Differences of opinion between defendant and his attorney about trial strategy do not trigger the duty to hold a *Marsden* hearing. (*People v. Lucky* (1988) 45 Cal.3d 259, 281; *People v. Clark* (1992) 3 Cal.4th 41, 101-103.) The court’s summary denial of a *Marsden* hearing at the conclusion of the trial was not an abuse of discretion.

VI

GOVERNMENT CODE SECTION 29550 BOOKING FEE

Defendant asserts a booking fee of \$414.45 was imposed under Government Code section 29550.2 and must be stricken because there was no substantial evidence to support a finding of his ability to pay it, as subdivision (a) of the statute requires. He also

complains that there is no evidence supporting the amount of the fee. Respondent replies that defendant waived the issue by failing to object in the trial court. The record shows the fee was imposed under Government Code section 29550, not section 29550.2.

We conclude: (1) that because defendant was arrested by a deputy sheriff, the booking fee could only have been imposed under section 29550, not 29550.2, that (2) since he was not granted probation but sent to prison, the controlling provision under section 29550 is subdivision (d)(1), which requires no determination of his ability to pay the fee; and (3) that defendant forfeited any objection he might have had to the amount of the fee by failing to object in the trial court.

Government Code sections 29550, 22950.1, and 22950.2 govern fees for processing or “booking” arrested persons into a county jail. To a certain extent, the fees vary depending on the identity of the arresting agency and the eventual disposition of the person arrested. Arrests made by an agent of a city or college, “or other local arresting agency” are governed by sections 29550, subdivision (a)(1) and 29550.1. Under section 29550, subdivision (a)(1), the county may charge the local arresting agency a booking fee. When it does so, under section 29550.1, “The court shall, as a condition of probation, order the convicted person to reimburse the [local agency].”

Arrests made by a county agent or officer are governed by section 29550, subdivision (c). Under subdivision (c), if the person is convicted of a crime related to the arrest, the county is entitled to recover a booking fee from the arrestee, but the fee may not exceed its actual administrative costs, including fixed overhead.

Section 29550, subdivisions (c), (d)(1) and (d)(2), specifies what a court is to do when it has been notified that the county is entitled to a booking fee. Under subdivision (d)(1), the judgment of conviction “may” include an order imposing the booking fee. However, under subdivision (d)(2), if the person convicted is granted probation, the fee becomes mandatory, although subject to a finding of an ability to pay: “The court shall, as a condition of probation, order the convicted person, based on his or her ability to pay, to reimburse the county for the . . . fee.”

Finally, arrests made by “any governmental entity not specified in Section 29550 or 29550.1” are governed by section 29550.2, subdivision (a). In general, with one subtle difference, the language of this provision is consistent with the language of the others. The difference is that, under section 29550.2, all convicted persons—those sent to prison, as well as those granted probation—are subject to a mandatory booking fee conditioned upon their ability to pay. The county may be entitled to recover a booking fee, but whether it can get an order for the fee depends on the arrestee’s financial condition.

All of this explains why defendant asserts that the fee in this case was imposed pursuant to section 29550.2. He wants it to be conditioned on his ability to pay. However defendant was arrested by a Riverside County deputy sheriff. Accordingly, his case is governed by section 29550, subdivisions (c) and (d)(1), not section 29550.2. Furthermore, since he was not granted probation, under section 29550, subdivisions (c) and (d)(1), a fee is due and must be included in the judgment of conviction. Under subdivision (d)(1), no ability-to-pay determination was necessary.

Regarding booking fees in particular, there is a split of authority with regard to whether the trial court is required to determine a criminal defendant's ability to pay the fee before imposing it, and whether objection is necessary to preserve a claim that the determination was not made. (*People v. Hodges* (1999) 70 Cal.App.4th 1348, 1357 [a defendant who fails to object to the imposition of a section 29550.2 booking fee in the trial court forfeits a challenge to the fee on appeal, notwithstanding the court's failure to determine his ability to pay]; *People v. Pacheco* (2010) 187 Cal.App.4th 1392, 1397 [a defendant who fails to object to either a section 29550 or a section 29550.2 booking fee does not forfeit a challenge to the fee on appeal if the challenge is to the sufficiency of the evidence to support a determination that the defendant had the ability to pay the fee]). The California Supreme Court is currently reviewing this question in *People v. McCullough*. (Review granted June 29, 2011, S192513.)

Defendant relies primarily upon *Pacheco*, as well as upon *People v. Viray* (2005) 134 Cal.App.4th 1186, a case upon which *Pacheco*, in turn, relied. Neither applies. *Viray* dealt with an attorney fee assessment imposed without objection following a request for it by the client's assigned counsel, the public defender. (*Viray*, at pp. 1213, 1217-1218.) On appeal, the People argued that the defendant had forfeited her claim by failure to object. (*Id.* at p. 1214.) The appellate court reasoned that, where a defendant's attorney asks the court to impose fees on the client for the attorney's own benefit or the benefit of his or her employer (including the public defender's office), the waiver rule does not apply. Under such circumstances, the attorney's conflict of interest essentially renders the client unrepresented and a client "cannot be vicariously charged with her

erstwhile counsel's failure to object to an order reimbursing his own fees." (*Ibid.*) *Viray* limited its holding to attorney fees. (*Id.* at p. 1216, fn. 15.)

Nor is *Pacheco* applicable. The trial court in *Pacheco* did not specify the statutory basis for the booking fee it imposed. (*People v. Pacheco, supra*, 187 Cal.App.4th at p. 1399.) In *Pacheco* there was no evidence as to what agency had arrested the defendant. (*Ibid.*, fn. 6.) In addition, the *Pacheco* defendant was placed on probation, not sentenced to prison. (*Id.* at p. 1395.) In reviewing the matter, the appellate court first held that ability to pay claims based on sufficiency of the evidence are generally not forfeited for purposes of appeal. (*Id.* at p. 1397.) It then separately addressed attorney fees, booking fees, and probation supervision fees, finding that the statutory basis for the booking fee, whether section 29550 or 29550.2, is irrelevant because under each provision, imposition of a booking fee is subject to an ability-to-pay finding. (*Pacheco*, at pp. 1397-1401.)

The *Pacheco* court's conclusion concerns the imposition of the fee on a defendant who receives a grant of probation. However, where the fee is imposed on a defendant who is sentenced to prison, under the relevant provisions, subdivisions (c) and (d)(1) of section 29550, an ability-to-pay finding is not required, and the reasoning of *Pacheco* does not apply.

Defendant also complains that the amount of the fee is not supported by evidence of actual administrative costs. Sections 29550 and 29550.2 both provide that the fee cannot exceed actual administrative costs. (§§ 29550, subs. (c) & (e); 29550.2, subd. (a).) Under section 29550, subdivision (c), "The fee . . . shall not exceed the [county's] actual administrative costs, including applicable overhead costs incurred in booking or

otherwise processing arrested persons.” Here, as defendant claims, there is no evidence in the record about exactly how the county determined its administrative cost for booking him. Defendant, however, accepted as appropriate the amount imposed. Neither he nor his attorney objected to the amount of the fine. We conclude that defendant forfeited any objection he may have had to the amount of the fine by standing silently by in the trial court and failing to object on that basis. (*People v. Valtakis* (2003) 105 Cal.App.4th 1066, 1075.)

VII
DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

CODRINGTON
J.

We concur:

RAMIREZ
P. J.

RICHLI
J.