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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.

CHARLES ALEXANDER BOYD,

Defendant and Appellant.

E055231

(Super.Ct.No. RIF10002905)

OPINION

APPEAL from the Superior Court of Riverside County. Edward D. Webster, Judge. (Retired judge of the Riverside Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.) Affirmed.

Patrick J. Hennessey, Jr., under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant appeals from the trial court's November 21, 2011 ruling that defendant was not competent to stand trial under Penal Code section 1368.¹ As discussed below, we affirm the ruling.

FACTS AND PROCEDURE

On June 3, 2010, defendant beat up his girlfriend of three years, attempted to strangle her, and told her he was going to kill her. Defendant broke her nose and left her with bruises on her face and arm. Defendant prevented the victim from leaving the home and took away her cell phone. The victim was later able to escape and seek help from another person to call police.

On July 7, 2010, the People charged defendant with spousal abuse (§ 273.5, subd. (a)), assault by force likely to cause great bodily injury (§ 245, subd. (a)(1), false imprisonment (§ 236), criminal threats (§ 422), and grand theft (§ 487, subd. (a)). As to the spousal abuse and assault charges, the People alleged the infliction of great bodily injury. (§ 12022.7.)

On October 24, 2011, during one of several *Marsden*² hearings, defendant rambled—mostly incoherently—for about 30 minutes regarding conspiracies and his distrust of his attorney. Defense counsel declared a doubt as to defendant's competency to stand trial. After hearing from the parties, the trial court suspended criminal proceedings, remanded defendant into custody, and appointed two doctors to perform

¹ All section references are to the Penal Code unless otherwise indicated.

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

psychological assessments. The court asked the psychologists to address whether defendant was dangerous to the victim or to the public generally, and whether he would be able to cooperate with any defense counsel.

The competency hearing was held on November 21, 2011. Both psychologists concluded that defendant was unable to assist his defense counsel in the conduct of a defense in a rational manner. They agreed that that defendant suffers from paranoia and delusions, which manifest themselves in his belief that the police, the victim and the courtroom personnel, including his own attorney, are part of a conspiracy, and this belief system makes him unable to cooperate with any defense counsel in a rational manner. At the conclusion of the hearing, the trial court declared defendant incompetent to stand trial. On December 12, 2011, the trial court placed defendant at Patton State Hospital for a period not to exceed four years, or until he regained competency.³ Defendant appealed the same day.

DISCUSSION

After defendant appealed, and upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case, a summary of the facts, and potential arguable issues, and requesting this court to undertake a review of the entire record.

³ Defendant has since been released from Patton State Hospital and criminal proceedings were reinstated on February 9, 2012.

We offered defendant an opportunity to file a personal supplemental brief, and he has done so. In his 10-page supplemental brief, defendant makes the following arguments:

First, he contends the trial court commenced the competency proceedings “without giving appellant his rights regarding the proceedings,” and it commenced an illegal bench trial without defendant’s knowledge and without cause. Section 1368 provides that if, “during the pendency of an action,” “a doubt arises in the mind of the judge as to the mental competence of the defendant, he or she shall state that doubt in the record and inquire of the attorney for the defendant whether, in the opinion of the attorney, the defendant is mentally competent. . . .” (§ 1368, subd. (a).) Thus, “[i]f a defendant presents substantial evidence of his lack of competence and is unable to assist counsel in the conduct of a defense in a rational manner during the legal proceedings, the court must stop the proceedings and order a hearing on the competence issue. [Citations.] In this context, substantial evidence means evidence that raises a reasonable doubt about the defendant’s ability to stand trial. [Citation.] The substantiality of the evidence is determined when the competence issue arises at any point in the proceedings. [Citation.] The court’s decision whether to grant a competency hearing is reviewed under an abuse of discretion standard. [Citations.]” (*People v. Ramos* (2004) 34 Cal.4th 494, 507.) While defendant is not specific about what “rights” the trial court did not give him, other than notice of the hearing, we have reviewed the record and determined that defendant was made duly aware of the competency proceedings, and that the proceedings were legally initiated based on sufficient evidence that defendant would not speak to his

attorney and refused to assist her in his defense because he did not trust her, based on delusions of her participation in a conspiracy against him.

Second, defendant contends the trial court erroneously denied him a *Marsden* hearing after competency proceedings began. However, the court correctly told defendant, both after his attorney expressed a doubt about his competence on October 24, 2011, and after defendant was declared incompetent on November 21, 2011, that defendant could not dismiss his attorney via the *Marsden* vehicle while criminal proceedings were stayed, and because defendant was not competent to make such a decision.

Third, defendant appears to argue sufficient evidence does not support the incompetency determination. However, the trial court's determination is well supported by the only evidence submitted—the opinion of the two appointed psychologists that defendant was incompetent to stand trial because his paranoia and delusions of a conspiracy made him incapable of assisting his attorney in his own defense.

Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, 120-121, we have independently reviewed the record for potential error.

We have now concluded our independent review of the record and find no arguable issues.

DISPOSITION

The trial court's order is affirmed.

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RAMIREZ
P. J.

We concur:

HOLLENHORST
J.

KING
J.