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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

LILLIAM IVETTE BERRIOS,

Defendant and Appellant.

G050451

(Super. Ct. No. RIF1208521)

O P I N I O N

Appeal from a judgment of the Superior Court of Riverside County, Larrie R. Brainard Judge. (Retired judge of the San Diego Super. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal.Const.) Affirmed.

Tony Faryar Farmani, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Julie L. Garland, Assistant Attorney General, Charles C. Ragland, Robin Urbanski and Alastair J. Agcaoili, Deputy Attorneys General, for Plaintiff and Respondent.

* * *

A jury convicted defendant Lilliam Ivette Berrios of two counts of insurance fraud (Pen. Code,¹ § 550, subd. (a)(1); counts one and three), two counts of presenting a false statement in support of an insurance claim (§ 550, subd. (b)(1); counts two and four), preparing a writing for submission in support of a false claim (§ 550, subd. (a)(5); count five), unlawful possession of personal identifying information of another (§ 530.5, subd. (a); count six), and making a false police report (§ 148.5, subd. (a); count eight), a misdemeanor. The court imposed a four years and eight months commitment, consisting of a two-year low-term sentence on count one, consecutive one year terms (one-third the midterm) on counts three and five, and a consecutive eight-month term (one-third the midterm) on count six. The court sentenced defendant to credit for time served on the misdemeanor (count eight) and stayed the sentences imposed on counts two and four pursuant to section 654. The court then ordered defendant to serve two years in custody and the remaining time out of custody under supervision. Defendant contends the evidence does not support her conviction for identity theft and claims she was denied due process by being convicted of both filing a fraudulent insurance claim and knowingly presenting a false statement in support of an insurance claim. We reject her arguments and affirm.

I

FACTS

The facts relevant to the issues presented may fairly be summarized as follows. On May 8, 2008, Riverside Police Officer Michael Boulerice contacted defendant about a report concerning the theft of her automobile. She said her ex-boyfriend, whom she identified as Juan Carlos Lopez, took the keys to her 2009 Toyota Corolla, stating he was going to borrow the car. She described Lopez as a male Hispanic, 40 years old, with a medium build. She did not provide his birth date, telephone number,

¹ All undesignated statutory references are to the Penal Code.

or address. Boulerville asked defendant about the rims and tires on the Toyota. She said it had stock tires and rims. She did not mention any property as having been in the vehicle when it was taken.

A week later, May 15, 2012, defendant contacted the Automobile Club of Southern California (AAA) and submitted an insurance claim for the stolen car. The vehicle had been recovered by then. The next day, May 16, Karen Kozel, who handles theft claims for AAA, contacted defendant about her claim. Defendant said her boyfriend went to her residence to talk about their relationship. He asked to borrow the Toyota and she said no, but he took the keys and the vehicle despite her refusal. Kozel asked whether the vehicle was financed to determine if there was a lien holder on the vehicle and whether defendant was behind in her payments. Defendant said the vehicle was being financed and she was behind in her payments. Defendant did not claim any property was in the vehicle when it was stolen. Later in the claim process defendant said a GPS device and two laptops were in the Toyota when it was taken. Kozel does not recall defendant saying she had aftermarket rims on the Toyota.

Lacey Reed of AAA subsequently contacted her about the claim. Reed's notes indicate defendant told her there were different wheels on the car when it was stolen. Kozel spoke with defendant again on June 11, 2012. Kozel went over the amount AAA would pay the lien holder on the vehicle and the amount to be paid to defendant. She told defendant AAA needed the receipt for the rims she claimed were on the Toyota. On June 13, defendant provided a receipt for four rims at a total price of \$1,998, including sales tax. The receipt was purportedly from Audio Video Specialist.

Constance Chapman is a homeowners' claims representative for AAA. She said items brought out of a residence and placed in an automobile are not covered by an automobile insurance policy. They are covered under a homeowner's policy. Chapman was assigned a homeowner's insurance claim by defendant related to items allegedly

stolen from her vehicle. She contacted defendant on June 18, 2012. Defendant said her ex-boyfriend stole her automobile and the property inside the vehicle. She said the items in the vehicle included two laptop computers, a wallet containing \$600, a one carat engagement ring, earrings, a GPS, a car seat, car covers, a radio, a television, and the rims on her tires were removed from the vehicle. Defendant said the rims were on the car when it was taken. She did not tell Chapman the rims were in the trunk of the Toyota.

AAA sent defendant a property loss worksheet for her to complete. The form requested description of the items taken and some proof of ownership, such as receipts, manuals, photographs, credit card statements, etc. Defendant provided no proof of ownership for any of the items other than the rims, and the rims are not covered by the homeowners insurance because items used primarily for a vehicle are not covered by homeowners insurance.

Janalee Bixby testified she had been defendant's best friend for 13 years. She lived with defendant in May 2012. Bixby knew defendant's current boyfriend and the boyfriend before him. Bixby never heard of Lopez. She identified a photograph of defendant's Toyota with standard rims on it. She said the rims were the same ones that were on it when defendant bought it.

Bixby said she was at defendant's residence on the date the Toyota was purportedly stolen. She did not believe the car was stolen. She said the day the Toyota was purportedly stolen, defendant gave the keys to someone to take the car away. Bixby said the day before the car was reported stolen, she heard defendant tell her boyfriend Victor Hernandez about her car, about being late on the payments, and not wanting the vehicle repossessed, which would result in her losing her money. Defendant said she wanted to "get rid of the car."

Later that night, a woman came to the residence. Defendant went outside to talk to the woman, came back inside, grabbed her keys, and went back outside again and

spoke with the woman. No ex-boyfriends of defendant went to defendant's residence that night. When Bixby went outside the next morning, the car was gone.

Albert Gamboa knows defendant and was friends with her in 2012. In May 2012 defendant asked him if she could borrow some money. He did not lend her any. That same day, defendant asked Gamboa if he knew anyone who could get rid of her car.

Ibrahim Ibrahim is part owner of AVS Motoring, Inc. (AVS) in Montclair. He has owned the business for eight years. His business sells rims, tires, stereos, and speakers. An investigator showed him the receipt submitted by defendant for rims. It was not a receipt from his business, although the business used the name Audio Visual Specialist and Discount Auto Service in its first three years. Ibrahim said this was not the first time someone tried to Photoshop one of his receipts and then submit it to an insurance company.

He gave a number of reasons for concluding the receipt was not from his business. Aside from the fact AVS has never used a stamp with Audio Visual Specialist as the business's name, a receipt from his business would reflect the make and model of the vehicle. Defendant's receipt did not. Defendant's receipt indicates the amount was paid in full with cash, but if paid in full with cash, AVS would not have charged sales tax. Additionally, not only did the receipt fail to list the model number of the rims sold, but AVS has never sold Lexani rims and Lexani rims—the rims defendant claims were on her car—would not fit defendant's car. Ibrahim checked AVS's computer system and did not find defendant's name. Neither has he ever seen her before, notwithstanding the fact defendant's receipt has his name on it.

AAA paid on defendant's automobile insurance claim. The car was declared a total loss. AAA paid the lienholder over \$11,000 and paid defendant over \$5,600. Because defendant did not produce any proof of ownership for the items claimed

to have been in the car, suspicion was aroused by Bixby's call to AAA wherein she said defendant's Toyota had not been stolen.

Joseph Thrasher, a claims representative of AAA, investigates questionable claims. He contacted defendant and discussed her expenses with her. Defendant said she paid \$309 a month on her car payment and \$500 a month rent. She said she was unemployed and had been receiving \$182 a month in unemployment benefits until her benefits ran out a couple of months earlier. Defendant was unable to provide Thrasher with a way to contact Lopez.

Defendant told Thrasher her vehicle had aftermarket wheels on it when it was stolen. She said the stock wheels from the car had been in a shed and must have been stolen at the same time, as they were on her car when it was recovered. Defendant also admitted being behind on one car payment at the time the vehicle was reported stolen.

Mark Magill, a fraud investigator with the district attorney's office interviewed defendant in October 2012. Defendant reiterated she had \$2,000 aftermarket wheels and tires on her car when it was stolen. When Magill told defendant his investigation revealed her vehicle never had aftermarket rims on it, defendant said the rims had been in the trunk of the car when it was stolen.

Defendant testified in her own defense. She said she knew Lopez for three or four years, dated him for about four months, and said he took her car without her permission. She said Lopez did not have a telephone and lived with a family member, so she never went to his residence.

Defendant said Bixby was angry with her because of her relationship with a certain male. Defendant also denied asking Gamboa about getting rid of her car. She said *he asked her* about making the car "disappear." She also denied asking Gamboa for money. She said Gamboa made "[m]any" passes at her, which she rejected because he

has “a good woman and he was married.” Defendant said Bixby called the insurance company to get back at her, and Gamboa made his statements because he was upset with her for not sleeping with him.

According to defendant, she went with Hernandez to pick out the rims for her car and the person who sold them the rims was a friend of Hernandez’s. She said Hernandez gave her the receipt she presented to AAA. Defendant said the reason the rims were not on her car when it was stolen was because she felt it was unsafe to have expensive rims on her car in her neighborhood.

II

DISCUSSION

A. *Conviction for Obtaining Personal Information*

Defendant contends the evidence does not support her conviction in count six for violating section 530.5, subdivision (a). The rules applicable to reviewing the sufficiency of the evidence are well known. “‘In assessing the sufficiency of the evidence, we review the entire record in the light most favorable to the judgment to determine whether it discloses 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.’ [Citation.]” (*People v. Steele* (2002) 27 Cal.4th 1230, 1249.) We must accept all assessments of credibility made by the trier of fact and determine if substantial evidence exists to support each element of the offense. (See *People v. Carpenter* (1997) 15 Cal.4th 312, 387.) We presume in support of the judgment the existence of every fact that could reasonably be deduced from the evidence. (*People v. Kraft* (2000) 23 Cal.4th 978, 1053.) We may reverse for lack of substantial evidence only if “‘upon no hypothesis whatever is there sufficient substantial evidence to support [the conviction].’ [Citation.]” (*People v. Bolin* (1998) 18 Cal.4th 297, 331.) In other words, the fact the evidence could

“‘reasonably be reconciled’” with innocence does not permit an appellate court to reverse a conviction. (*People v. Whisenhunt* (2008) 44 Cal.4th 174, 200.)

Section 530.5, subdivision (a) section makes it a crime for one to obtain the “personal indentifying information” of another person and then “use[] that information for any unlawful purpose.” *Personal indentifying information* is defined in section 530.55, subdivision (b). For our purposes, personal indentifying information includes “any name, address, telephone number . . . or . . . place of employment” (§ 530.55, subd. (b).) Additionally, for purposes of section 530.5, subdivision (a), “‘person’ means a natural person . . . firm, association, partnership, business trust, company . . . or any other legal entity.” (§ 530.55, subd. (a).)

To prove a violation of section 530.5, subdivision (a), “the defendant must (1) willfully obtain personal identifying information of another person, and (2) use the indentifying information for an unlawful purpose without the person’s consent.” (*People v. Tillotson* (2007) 157 Cal.App.4th 517, 533.) Defendant argues there is no substantial evidence she obtained personal identifying information from another person without authorization. We disagree.

Defendant submitted a bogus receipt to her insurance company in an effort to obtain compensation for rims she claimed were on her vehicle (or in the trunk) when it was taken. The receipt bore the name of “Audio Video Specialist,” the name AVS Monitoring used in its first three years in business. Additionally, defendant used AVS’s address, telephone and fax numbers, and Ibrahim’s name on the bogus receipt.²

² Although the stamp containing the business name, address, telephone and facsimile numbers used on the fake receipt is not completely legible, it appears to contain the same address, telephone and fax numbers as AVS (formerly Audio Video Specialist). It also appears the police were able to contact AVS to inquire of the receipt’s authenticity by using the personal information (address, telephone, and fax number) on the receipt.

Defendant argues the evidence was silent as to her obtaining personal information from another person without authorization, but the evidence demonstrated she presented a false receipt to AAA in an effort to defraud the insurance company into paying for custom rims she alleged were stolen along with her automobile. Having presented the false receipt with AVS's personal information on it, defendant had to have obtained the information from somewhere. The evidence also demonstrated the personal information was not provided to defendant by the owner of AVS. He testified the receipt was not from his business. If a defendant "freely accept[s]" personal information of another and subsequently uses it for her own purposes, the defendant willfully obtained the information. (*In re Rolando S.* (2011) 197 Cal.App.4th 936, 941.) According to her own testimony, defendant freely accepted the personal information on the receipt from Hernandez.

"The elements of the crime defined by the language of the statute may be summarized as follows: (1) that the person willfully obtain personal identifying information belonging to someone else; (2) that the person use that information for any unlawful purpose; and (3) that the person who uses the personal identifying information do so without the consent of the person whose personal identifying information is being used. [Citations.]" (*People v. Barba* (2012) 211 Cal.App.4th 214, 223, fn. omitted.) Defendant willfully obtained AVS's personal information, she used the information for an unlawful purpose—to commit fraud—and she did so without the consent of the owner of AVS. Thus, the evidence supports the conviction for violating section 530.5, subdivision (a).

B. Multiple Convictions

Section 550, subdivision (a)(1) makes it unlawful for one to "[k]nowingly present or cause to be presented any false or fraudulent claim for the payment of a loss or

injury, including payment of a loss or injury under a contract of insurance.” Subdivision (b)(1) of section 550 makes it unlawful to “[p]resent or cause to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.” Defendant was convicted of two counts of violating section 550, subdivision (a)(1) (counts one and three) and two counts of violating section 550, subdivision (b)(1) (counts two and four). She contends she was improperly convicted of violating both subdivisions based on her claim to AAA for the alleged theft of her automobile under her auto insurance policy and improperly convicted of violating each subdivision in submitting a claim to AAA under her homeowners policy. Defendant relies on *People v. Craig* (1941) 17 Cal.2d 453, as support for her position. The Attorney General argues the convictions were proper because each one was based on a different act.

Section 954 permits the prosecution to charge different statements of the *same* offense or two or more *different* offenses connected together in their commission. As a general rule, section 954 permits multiple convictions based on the same act or acts. Of course, section 654 prohibits multiple punishment. (*People v. Correa* (2012) 54 Cal.4th 331, 337.)

The California Supreme Court has “repeatedly held that the same act can support multiple charges and multiple convictions.” (*People v. Gonzalez* (2014) 60 Cal.4th 533, 537.) There is, however, a judicially created exception to the general rule: the courts do not permit multiple convictions where the convictions are based on necessarily included offenses. (*Ibid.*) Defendant does not contend section 550, subdivision (b)(1) is a lesser included offense of section 550, subdivision (a)(1), or vice versa.

The rape statute in effect at the time of the offenses in *People v. Craig, supra*, 17 Cal.2d 453, defined the crime of rape and set forth six ways in which the crime could be committed, including where the victim is under 18 years of age or the victim's resistance was overcome by force. (*Id.* at p. 455.) The defendant in *Craig* raped the victim, who was under 18 years of age at the time, by force. He was charged with one count of rape by force and one count of rape of a victim under 18 years of age. The defendant was convicted on both counts, based on a single act of intercourse. He contended on appeal he could not be convicted of two rapes based on one act. (*Id.* at pp. 454-455.)

The Supreme Court agreed. The court pointed out section 261 defined rape as “an act of sexual intercourse, accomplished with a female not the wife of the perpetrator, under either of the following circumstances” (*People v. Craig, supra*, 17 Cal.2d at p. 455.) Two of the circumstances listed in the statute—where the victim is under 18 years of age, and where the victim's resistance is overcome by force—applied to the facts in *Craig*. The Supreme Court stated, “Under this section, but one punishable offense of rape results from a single act of intercourse, although that act may be accomplished under more than one of the conditions or circumstances specified [in section 261].” (*Ibid.*)

The *Craig* court also noted the charging document charged the defendant in the first count with rape by force, and in count two with rape based on the victim having been under the age of consent, after noting count two “was ‘a different statement of the same offense’” as that stated in count one. (*People v. Craig, supra*, 17 Cal.2d at p. 454, italics added.) Additionally, the court considered its earlier opinion in *People v. Vann* (1900) 129 Cal. 118, wherein it construed section 261 so as to give it an interpretation consistent with legislative intent. (*People v. Craig, supra*, 17 Cal.2d at pp. 455-456, citing *People v. Vann, supra*, 129 Cal. at p. 121.) In *Vann*, the court found the

Legislature did not intend “to create six different kinds of crime” in enacting section 261. (*People v. Vann, supra*, 129 Cal. at p. 121.)

Our Supreme Court recently discussed its *Craig* decision in *People v. Gonzalez, supra*, 60 Cal.4th 533. Before discussing *Gonzalez*, we note that unlike the situation presented in *Craig*, where the charging document alleged a second count of rape as “a different statement of the *same* offense,” (*People v. Craig, supra*, 17 Cal.2d at p. 454, italics added), defendant was charged in count one with violating section 550, subdivision (a)(1) on May 15, 2012, and in count two with violating subdivision (b)(1) of section 550, as “a *different* offense” from, but connected in its commission with, count one. The offense charged in count two was alleged to have been committed the day *after* the violation charged in count one. In count three of the information, defendant was charged with a violation of section 550, subdivision (a)(1) on June 18, 2012. Again, count four charged a violation of section 550, subdivision (b)(1) as “a different offense,” however, this time the information alleged count four was also violated on June 18, 2012, the same date alleged in count three.

Thus, it initially appears *Craig* does not support defendant’s contention because (1) the counts were charged as *different* offenses and (2) the *Craig* court agreed “[a] defendant may be convicted of two separate offense arising out of the same transaction when each offense is stated in a separate count and when the two offenses differ in their necessary elements and one is not included *within the other*.” [Citation.]” (*People v. Craig, supra*, 17 Cal.2d at p. 457.) Subdivision (a)(1) of section 550 prohibits knowingly making a fraudulent insurance claim, whereas subdivision (b)(1) prohibits knowingly making a false or misleading written or oral statement “in support of *or opposition to*, a claim for payment or other benefit pursuant to an insurance policy.” (Italics added.) As the information makes evident, especially in setting forth different dates of violation in counts one and two, the same act could not have served as the basis

for conviction of both subdivisions. Defendant was prosecuted in count one for having made the fraudulent claim and in count two for the false statements she made to the adjuster the day after she made the fraudulent claim.

The defendant in *People v. Gonzalez, supra*, 60 Cal.4th 533, was convicted of oral copulation on an unconscious person (§ 288a, subd. (f)) and oral copulation on a person prevented from resisting due to intoxication (§ 288a, subd. (i)), based on a single act of oral copulation. (*People v. Gonzalez, supra*, 60 Cal.4th at p. 536.) Our Supreme Court held whether a defendant can be convicted of multiple violations of a statute based on a single act is a matter of statutory construction. In other words, did the Legislature intend to “define different offenses or merely describe different ways of committing the same offense[?]” (*Id.* at p. 537.) The trial court imposed a state prison commitment on one count and stayed the sentence on the other pursuant to section 654. (*People v. Gonzales, supra*, 60 Cal.4th at p. 536.) On appeal, the defendant contended he could not be convicted of violating both subdivisions of a statute based on a single act. (*Ibid.*) The Supreme Court rejected his argument, holding one act can support multiple convictions unless one of the offenses is necessarily included another. (*Id.* at p. 537.) Otherwise, whether a single act can violate two or more penal provisions is a matter of statutory construction. (*Ibid.*)

The *Gonzalez* court found the Legislature intended more than one subdivision of section 288a could be violated by a single act. (*People v. Gonzalez, supra*, 60 Cal.4th at p. 539.) It reasoned that each subdivision of section 288a was self-contained. Each defined an offense and provided a penalty. (*Ibid.*) For example, one over 21 years of age who orally copulates a person under 16 years of age “is guilty of a felony” (§ 288a, subd. (b)(2)), meaning one convicted of that offense may be punished by 16 months, two years, or three years in state prison. (§ 18, subd. (a).) Section 288a, subdivisions (c)(2)(A), (B), and (C) each set forth a different circumstance under which

the crime of oral copulation may be committed, and each sets forth a different possible punishment.³ (§ 288a, subds. (c)(2)(A) [oral copulation by force punishable by three, six, or eight years in state prison], (B) [oral copulation by force on victim under 14 years of age punishable by 8, 10, or 12 years], (C) [oral copulation on minor 14 years of age or older punishable by 6, 8, or 10 years].) Subdivision (f) of section 288a, one of the provisions the defendant in *Gonzalez* was convicted of violating, also provides its own penalty provision, as does subdivision (i), the other provision the defendant was convicted of violating.

The *Gonzalez* court found its earlier decision in *People v. Craig, supra*, 17 Cal.2d 453 was distinguishable because unlike the situation in *Craig*, the subdivisions in section 288a “describe different offenses.” (*People v. Gonzalez, supra*, 60 Cal.4th at p. 535.) Our job then is to determine whether the provisions of section 550 define separate crimes as section 288a does or define but one crime and merely state the different circumstances under which the offense may be committed (see *People v. Craig, supra*, 17 Cal.2d at p. 454).

““[W]e begin by examining the statute’s words, giving them a plain and commonsense meaning. [Citation.] We do not, however, consider the statutory language ‘in isolation.’ [Citation.] Rather, we look to ‘the entire substance of the statute . . . in order to determine the scope and purpose of the provision [Citation.]’ [Citation.] That is, we construe the words in question “in context, keeping in mind the nature and obvious purpose of the statute” [Citation.]’ [Citation.] We must harmonize ‘the various parts of a statutory enactment . . . by considering the particular clause or section in the context of the statutory framework as a whole.’” [Citation.] ‘If, however, the

³ Section 288a contains 14 different subdivisions that not only set forth a particular circumstance under which the crime of oral copulation may be committed, but contain a penalty provision applicable to a violation that subdivision. (§ 288a, subds. (b)(1), (2), (c)(1), (2)(A), (B), (C), (d)(2), (3), (e-j).)

statutory language is susceptible of more than one reasonable construction, we can look to legislative history in aid of ascertaining legislative intent.’ [Citation.]” (*People v. Gonzalez, supra*, 60 Cal.4th at pp. 537-538.)

Unlike the version of section 261 considered by the court in *Craig*, section 550 does not define a crime and proceed to set forth a number of examples. Rather, like section 288a, section 550 prohibits a number of acts and prescribes different penalties for the various unlawful acts. Section 550, subdivision (a)(1) prohibits the knowing presentation of a fraudulent insurance claim. The penalty for a violation of subdivision (a)(1) is found in subdivision (c)(1) of section 550. Subdivision (b)(1) of section 550 prohibits the presentation of any written or oral statement in support of or opposition to an insurance claim when the individual knows the statement contains “false or misleading information concerning any material fact.” The penalty for a violation of that subdivision is set forth in subdivision (c)(3) of section 550. While the penalty for a violation of section 550, subdivision (a)(1) is two, three, or five years (§ 550, subd. (c)(1)) and a violation of subdivision (b)(1) of section 550 may also be punished by two, three, or five years, a violation of subdivision (b)(1) of section 550 may also be treated as a misdemeanor (§ 550, subd. (c)(3)). We therefore conclude the Legislature did not intend section 550 to define but one crime and instead intended section 550 to define a number of crimes related to insurance fraud.

An argument similar to defendant’s was rejected by the appellate court in *People v. Zanoletti* (2009) 173 Cal.App.4th 547. There, Ramon and Magdalena Zanoletti were each convicted of 19 counts of violating section 550, subdivision (a)(1). Magdalena was also convicted of 19 additional counts of violating section 550, subdivision (a)(5).⁴ (*People v. Zanoletti, supra*, 173 Cal.App.4th at p. 549.) On appeal, Magdalena

⁴ Subdivision (a)(5) of section 550 makes it unlawful for one to “[k]nowingly prepare, make, or subscribe any writing, with the intent to present or use it, or to allow it to be presented, in support of any false or fraudulent claim.”

contended she could not be convicted of violating both subdivisions because the subdivisions “merely describe different means of committing the single offense of insurance fraud.” (*Id.* at p. 556.)

The appellate court concluded Magdalena could be convicted of violating both subdivisions because “they were based on different acts of fraud.” (*People v. Zanoletti, supra*, 173 Cal.App.4th at p. 556.) As an example, the court explained her liability on counts one (§ 550, subd. (a)(1)) and two (§ 550, subd. (a)(5)). The count charging a violation of section 550, subdivision (a)(5) was completed when Magdalena had a patient sign fraudulent sign-in sheets for 30 treatments when he had been treated on only 15 occasions. The court observed the violation was complete when Magdalena created the documents. The conviction for violating subdivision (a)(1) of section 550 was based on the documents created by Magdalena and forwarded to the law office that submitted the documentation to the insurance company in support of the Zanolettis’ fraudulent claim. (*People v. Zanoletti, supra*, 173 Cal.App.4th at p. 558.) The court concluded, the convictions for violations of subdivisions (a)(1) and (a)(5) of section 550 were proper “[b]ecause Magdalena either directly engaged in or conspired to engage in each of these separate acts of insurance fraud.” (*People v. Zanoletti, supra*, 173 Cal.App.4th at p. 559.)

The same can be said of defendant’s convictions. The violation of subdivision (a)(1) of section 550 charged in count one was complete on May 15, 2012, when she falsely claimed her automobile had been stolen. Her violation of subdivision (b)(1) of section 550, as charged in count two, did not occur until the day after she filed her initial claim, when she falsely claimed her ex-boyfriend stole her vehicle. Similarly, her conviction in count three for violating subdivision (a)(1) of section 550 was based on her false claim on her homeowners insurance and the conviction in count four for

violating subdivision (b)(1) of section 550 was based on false statements she thereafter made to claims representatives.

Because subdivision (b)(1) is not a lesser included offense of subdivision (a)(1) of section 550, the Legislature did not intend to prohibit multiple convictions of section 550, and defendant's convictions are based on four separate acts, we conclude defendant was properly convicted of counts one and three (§ 550, subd. (a)(1)) as well as counts two and four (§ 550, subd. (b)(1)).

III

DISPOSITION

The judgment is affirmed.

MOORE, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

ARONSON, J.