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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

JASMINE ADAMS,

Defendant and Appellant.

B280040

(Los Angeles County
Super. Ct. No. BA442606)

APPEAL from a judgment of the Superior Court of Los Angeles County. Ronald S. Coen, Judge. Affirmed.

Katja M. Grosch, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Victoria B. Wilson and Lindsay Boyd, Deputy Attorneys General, for Plaintiff and Respondent.

A jury found defendant Jasmine Adams guilty of damaging prison or jail (Pen. Code, § 4600, subd. (a)),¹ and found true an allegation that the damage or injury to the jail property exceeded \$950. The court sentenced Adams to three years in county jail and ordered she pay restitution to the Los Angeles County Sheriff's Department (Sheriff's Department) in the amount of \$1,610.23. On appeal, Adams argues the court lacked a rational basis for ordering \$1,610.23 in restitution. Adams further argues her felony conviction must be reduced to a misdemeanor because the damage to the jail property was less than \$950. We disagree and affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

On November 2, 2015, Adams was incarcerated at Twin Towers Correctional Facility (Twin Towers), which is a county jail operated by the Sheriff's Department. Adams asked a passing Sheriff's Deputy to take her from her cell to the shower. The deputy was in the process of completing a security check, and told Adams to "hold on." In response, Adams repeatedly kicked the glass window at the bottom of her cell door, causing the glass to shatter.

Adams was charged with one felony count of damaging prison or jail in violation of section 4600, subdivision (a), with an allegation that the damage or injury to the property exceeded \$950.

At trial, Michael Parkinson, who oversaw facility management issues at Twin Towers, testified about the repair of the broken window in Adams's cell. Parkinson was responsible for ordering the replacement parts and oversaw the installation

¹ All further section references are to the Penal Code.

of the replacement window. According to Parkinson, the Sheriff's Department paid a total of \$1,610.23 for the repairs. This amount included the cost of "temporary glass," permanent replacement safety glass, and labor for the installation of the glass.

Parkinson testified that the Sheriff's Department purchased five square feet of replacement safety glass at a cost of \$350 per square foot, minus a 25 percent discount. Thus, the total cost of the glass was \$1,312.50. On cross examination, Parkinson acknowledged that the window was approximately 2.7 square feet. Parkinson did not explain why he purchased five square feet of glass to replace a 2.7 square foot window, but noted that orders had to be rounded up to the nearest square foot.

According to Parkinson, the Sheriff's Department paid \$248.72 for installation of the glass, which was the cost for two skilled laborers to work for two hours each. Parkinson oversaw their work, but could not recall whether he personally observed the installation of the new window.

Parkinson further testified that the Sheriff's Department paid \$49² for the "temporary glass," which is a bulletproof plastic that allowed the cell to be occupied before the permanent glass could be installed.

In closing argument, Adams's counsel conceded she broke the glass in her cell, but asserted the cost of the damage was only \$910. Counsel reasoned that three square feet of glass, rather than five, were required to replace the window, and the window could have been installed by a single worker in two hours. On rebuttal, the prosecutor argued that, even if only three square

² On appeal, Adams states the cost of the temporary glass was actually \$49.01.

feet of glass were required for the repair, the total damage exceeded \$1,000.

The jury found Adams guilty of damaging prison or jail, and found true the allegation that the damage or injury to the county jail property exceeded \$950.

The trial court sentenced Adams to three years to be served in county jail pursuant to section 1170, subdivision (a). The court further ordered Adams pay restitution to the Sheriff's Department in the amount of \$1,610.23, pursuant to section 1202.4, subdivision (f), and section 4600, subdivision (b). The trial court did not explain how it calculated the restitution award. Rather, at the sentencing hearing, the court asked the prosecutor for an amount of restitution, to which the prosecutor responded with \$1,610.23. The court awarded that amount without further discussion or objection from Adams's counsel.

Adams timely appealed.

DISCUSSION

I. The Court Did Not Abuse its Discretion in Ordering \$1,610.23 in Restitution

Adams argues the trial court did not have a rational basis to order \$1,610.23 in restitution. We disagree.

The California Constitution provides that “all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.” (Cal. Const., art. I, § 28, subd. (b)(13)(A).) Section 1202.4 effectuates this right, and mandates that, with certain exceptions not relevant here, “in every case in which a victim has suffered economic loss as a result of the defendant's conduct, the court shall require that the defendant make restitution to the victim or victims.” (§ 1202.4,

subd. (f).) The court’s restitution order shall, “[t]o the extent possible . . . fully reimburse the victim or victims for every determined economic loss incurred as a result of the defendant’s criminal conduct.” (*Id.*, subd. (f)(3).) When the economic loss involves damaged property, the value of the damaged property “shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.” (*Id.*, subd. (f)(3)(A).) Further, section 4600 provides that the court may order a defendant convicted of intentionally destroying jail property to make restitution to the public entity that owns the damaged property. (§ 4600, subd. (b).)

“ ‘A victim’s restitution right is to be broadly and liberally construed.’ [Citation.]” (*People v. Baker* (2005) 126 Cal.App.4th 463, 467.) “There is no requirement the restitution order be limited to the exact amount of the loss in which the defendant is actually found culpable” (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1121.) However, “ ‘a restitution order “is not . . . intended to provide the victim with a windfall. [Citation.]” [Citation.]” (*People v. Busser* (2010) 186 Cal.App.4th 1503, 1510.)

“Once the victim makes a prima facie showing of economic losses incurred as a result of the defendant’s criminal acts, the burden shifts to the defendant to disprove the amount of losses claimed by the victim. [Citation.] The defendant has the burden of rebutting the victim’s statement of losses, and to do so, may submit evidence to prove the amount claimed exceeds the repair or replacement cost of damaged or stolen property. [Citation.]” (*People v. Gemelli* (2008) 161 Cal.App.4th 1539, 1543.)

We review the trial court's restitution order for abuse of discretion. (*People v. Millard* (2009) 175 Cal.App.4th 7, 26; *People v. Giordano* (2007) 42 Cal.4th 644, 663.) "When considering a trial court's restitution determination, we consider whether it is arbitrary, capricious, or beyond the bounds of reason under all the circumstances." (*People v. Hove* (1999) 76 Cal.App.4th 1266, 1275.) " "When there is a factual and rational basis for the amount of restitution ordered by the trial court, no abuse of discretion will be found by the reviewing court." ' [Citations.]' (*In re Johnny M.* (2002) 100 Cal.App.4th 1128, 1132.) Further, the trial court's factual findings must be supported by substantial evidence, whether contradicted or uncontradicted. (*People v. Millard, supra*, 175 Cal.App.4th at p. 26.)

The trial court had a rational and factual basis to order \$1,610.23 in restitution. Parkinson testified that the Sheriff's Department paid \$1,312.50 to purchase replacement safety glass, \$248.72 for labor to repair the window, and \$49 for the temporary glass. This testimony constituted prima facie evidence of the cost of repair for purposes of restitution, and the trial court could have reasonably inferred that the amount the Sheriff's Department paid for the repairs was equal to the actual cost of the repairs. (See, e.g., *People v. Gemelli, supra*, 161 Cal.App.4th at p. 1544 [victim's written statement of cost of repairs sufficient evidence to support restitution order]; *People v. Keichler* (2005) 129 Cal.App.4th 1039, 1048 ["statements by the victims of the crimes about the value of the property stolen constitute 'prima facie evidence of value for purposes of restitution'"].)

Adams asserts the court abused its discretion in awarding restitution for the cost of five square feet of glass. We disagree. The undisputed evidence showed the Sheriff's Department actually paid \$1,312.50 for the replacement safety glass to repair the window. This amount constituted an economic loss the Sheriff's Department sustained as a result of Adams's criminal conduct. (See § 1202.4, subd. (f)(3) [a restitution order shall "fully reimburse the victim or victims for every determined economic loss incurred as a result of the defendant's criminal conduct"].) Although Adams suggests it was unnecessary for the Sheriff's Department to purchase five square feet of glass to repair a 2.7 square foot window, she failed to present any evidence showing the glass was ordered or used for any purpose other than repairing the window she damaged. She also fails to point to any authority mandating that a victim receive restitution for the least amount of materials necessary to repair the damaged property. Moreover, the restitution order need not be limited to the exact amount of loss for which Adams was found culpable. (See *People v. Carbajal*, *supra*, 10 Cal.4th at p. 1121.) Thus, we cannot say the court's decision to award \$1,312.50 for the replacement safety glass was arbitrary, capricious, or beyond the bounds of reason under all the circumstances. (See *People v. Hove*, *supra*, 76 Cal.App.4th at p. 1275.)

We also do not agree with Adams that the amount paid by the Sheriff's Department for labor was excessive. According to Adams, "it is more likely that only a total of two [labor] hours was spent" on the repairs, rather than four hours. In support, Adams points to Parkinson's testimony that both workers were trained in carpentry and had the necessary skills for the job. She also asserts the nature of the job was small: removing broken glass,

installing a temporary panel, and installing the permanent safety glass. However, Adams's conclusion that skilled workers could complete these tasks in two hours is pure speculation and finds no evidentiary support. Even if it did, her argument would fail because it asks us to reweigh the evidence and substitute our judgment for that of the trial court, something we will not do on appeal. (See *People v. Millard*, *supra*, 175 Cal.App.4th at p. 26.)

We also reject Adams's suggestion that Parkinson's testimony was insufficient because it was not based on his personal knowledge. Adams contends that, because Parkinson could not recall observing the workers, he was not qualified to testify to the true amount of time spent by the workers. While that may be true, Parkinson was able to testify to his personal knowledge of the amount the Sheriff's Department paid for such work. As we discussed, this testimony alone was sufficient to support the restitution award.

II. Sufficient Evidence Supported the Felony Conviction

Adams contends her felony conviction should be reduced to a misdemeanor because there was insufficient evidence to show the damage to the property exceeded \$950. We disagree.

Section 4600 establishes different penalties for destruction of jail property dependent on the amount of damage to the property. (§ 4600, subd. (a).) If the damage is more than \$950, the offense is a felony punishable by imprisonment in a county jail for 16 months, or two to three years. If the damage is \$950 or less, the offense is a misdemeanor. (*Ibid.*)

When an appellant challenges the sufficiency of evidence supporting a jury's verdict, the reviewing court examines whether there was substantial evidence, considered as a whole, to permit

a reasonable trier of fact to find the defendant guilty of the charged crime beyond a reasonable doubt. (*Jackson v. Virginia* (1979) 443 U.S. 307, 318–319; see also *People v. Smith* (2014) 60 Cal.4th 603, 617; *People v. Lindberg* (2008) 45 Cal.4th 1, 27.) The court’s standard for determining what is “substantial evidence” is whether the evidence is “credible and of solid value.” (*People v. Kraft* (2000) 23 Cal.4th 978, 1053.) One witness’s testimony can be sufficient evidence to sustain a conviction. (*People v. Young* (2005) 34 Cal.4th 1149, 1181.)

The reviewing court presumes every fact the jury could have reasonably deduced from the evidence in support of the judgment. (*People v. Rangel* (2016) 62 Cal.4th 1192, 1212-1213; see also *People v. Lewis* (1990) 50 Cal.3d 262, 277.) “ [T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.’ ” (*People v. Staten* (2000) 24 Cal.4th 434, 460.) Therefore, the reviewing court will not reverse a judgment for insufficient evidence unless “ it appears “that upon no hypothesis whatever is there sufficient substantial evidence to support [the conviction].” [Citation.]’ ” (*People v. Hughes* (2002) 27 Cal.4th 287, 370.)

There was substantial evidence to support the jury’s finding that the damage to the Sheriff’s Department’s property exceeded \$950. This is true even if, as Adams contends, the evidence showed only three square feet of glass were necessary to repair the window. Parkinson testified the cost of replacement glass for the window was \$350 per square foot, minus a 25 percent discount. Because the glass had to be ordered by the square foot, the Sheriff’s Department would have been required

to order at least three square feet of replacement glass. This was sufficient evidence to show the cost for the replacement glass was at least \$787.50.

Further, there was substantial evidence that the cost of labor to repair the window was \$248.72. Parkinson testified the Sheriff's Department paid this amount in labor costs. Based on his testimony, a jury could have reasonably inferred that the actual cost for the labor to repair the broken window was \$248.72. Although Adams speculates that the repairs could have been completed using less labor, on appeal we do not reweigh the evidence or draw our own inferences. (See *People v. Proctor* (1992) 4 Cal.4th 499, 528–529 [“our opinion that the circumstances also might reasonably be reconciled with a contrary finding [to that of the trier of fact] would not warrant reversal of the judgment”]; *People v. Klvana* (1992) 11 Cal.App.4th 1679, 1703 [“it is inappropriate to ask an appellate court to reweigh the evidence and draw inferences which were rejected by the jury”].) Rather, our task is to determine whether any rational trier of fact could have found beyond a reasonable doubt that damage to the property exceeded \$950. (*People v. Staten, supra*, 24 Cal.4th at p. 460.) Here, Parkinson's testimony was sufficient to show the cost of labor to repair the window was \$248.72. When combined with evidence showing the minimum cost for the permanent replacement glass (\$787.50), there was sufficient evidence from which a rational jury could have found beyond a reasonable doubt that the damage to the property was at least \$1,036.21.³

³ Because this amount exceeds \$950, we need not decide whether the cost of the temporary glass should be included in the

DISPOSITION

The judgment is affirmed.

BIGELOW, P.J.

We concur:

FLIER, J.

GRIMES, J.

calculation of damage to the property for purposes of section
4600.