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FILED
August 29, 2016
Court of Appeals
Division I
State of Washington

NO. 73261-7-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

IBRAHIM ADAM,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE DEAN S. LUM

BRIEF OF RESPONDENT

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incarceration. CP 132. In its findings of fact and conclusions of law for the exceptional sentence, the court stated:

Each one of these aggravating circumstances is a substantial and compelling reason, standing alone, that is sufficient justification for the length of the exceptional sentence imposed. In the event that an appellate court affirms at least one of the substantial and compelling reasons, the length of the sentence should remain the same.

CP 201.

2. SUBSTANTIVE FACTS

Before being charged with the current felony stalking offense involving victim Sheila LaRose, occurring between September 30, 2013 and February 21, 2014, Ibrahim Adam had been convicted three times for stalking violations against three different women. In Seattle Municipal Court, Adam was convicted of stalking his first victim with an offense date of August 9, 2011. Exhibits 16, 17. In King County Superior Court, Adam was next convicted of stalking his second victim between January 14, 2012, and February 24, 2012. Exhibits 18, 19. His next stalking conviction, again in King County Superior Court, was for victimizing a third woman between September 13, 2012, and September 17, 2012. Exhibits 20, 21. Thus, including his offense against LaRose, Adam was convicted of stalking four women over a period exceeding two years and six months.

LaRose is a public defender with the King County Public Defense Office. 5RP¹ 32. At the time of this offense, LaRose lived in her West Seattle home with her ten year old daughter. 5RP 34. LaRose met Adam in November of 2012 when she was appointed to represent him. 5RP 36. She represented him until the end of July, 2013, when she withdrew from his case. 5RP 37-38. Immediately upon her withdrawal, LaRose began receiving "repeated and ongoing" phone calls from Adam. 5RP 38. Initially, because of the prior professional relationship, LaRose took his calls. 5RP 39. She started screening his calls because Adam was repeatedly professing his love for her and asking her to marry him. 5RP 39. In August and September, 2013, he called her every day, sometimes five times a day. 5RP 39. Before she started letting his calls go to voicemail, LaRose told Adam that she wasn't interested in him and that she wanted his calls to stop. 5RP 40.

The calls continued unabated into November, at which time LaRose encountered Adam at a coffee shop and told him to stay away from her. 5RP 40. A few minutes later, when she got back to her office, the calls continued. 5RP 40. LaRose had her supervisor, Leo Hamaji,

¹ This brief refers to the verbatim reports of proceedings as follows: 1RP (April 15, 16, 30; May 16; September 29; November 19; and December 23, 2014); 2RP (January 20, 2015); 3RP (January 21, 2015); 4RP (January 22, 2015); 5RP (January 26, 2015); 6RP (January 27, 2015); 7RP (January 28, 2015); 8RP (January 29, 2015); and 9RP (February 27, 2015).

answer one of the calls. 5RP 40-41. Hamaji told Adam that LaRose no longer represented him and to stop calling her. 5RP 41-42; 6RP 61-62. In an effort to convince him to stop, Hamaji told Adam that LaRose would get into trouble if he kept calling her. 5RP 42; 6RP 61-62. But Adam continued to call LaRose from November through the end of the year, sometimes numerous times per day. 5RP 42.

The calls were so persistent and obsessive that she became very afraid. 5RP 43. The calls were typically of this nature: "I love you, I love you, please baby, I love you. I want to marry you, I love you." 5RP 44. In February, 2014, Adam left a message that LaRose described as follows:

He indicated he had been watching me through my back bedroom door. He had seen my body. And that he wanted to touch my body. And that he had seen my body naked. And that he had been watching through my back door, which is a divided French glass door. He had been watching into my bedroom for the last three months since November.

5RP 44.

As a public defender, LaRose was extremely reluctant to call the police to report a former client. 5RP 46. But she did so when she realized, in February, 2014, that Adam had been coming to her home. 5RP 46-47. She and her daughter were leaving her house when she saw that a manila envelope with no postage had been placed on top of her mailbox. 5RP 47. The envelope contained pamphlets "on how to convert

a white woman to the Muslim faith." 5RP 47. LaRose drove to the police precinct and made a report. 5RP 47-48. The next morning there was a voicemail from Adam saying, "I saw your daughter, I saw your dog," and LaRose knew Adam had been to her home. 5RP 48. LaRose testified that realizing that Adam had found where she lived "took it to an entirely different level." 5RP 49.

The day after leaving the message referencing LaRose's dog and daughter, Adam left a message saying he had seen her cats. 5RP 50. LaRose's cats were kittens that she never allowed outside. 5RP 50. Later that same day, LaRose looked out a window and saw Adam standing with his face pressed against her gate. 5RP 51. LaRose screamed and called 911. 5RP 51. LaRose's daughter armed herself with a toy bow and arrow and advanced toward the front door but her mother told her to get into her room. 5RP 52. While LaRose was on the phone with 911 Adam stared at her through the window. 5RP 54. By the time police arrived Adam had disappeared. 5RP 55.

The next day, LaRose received several messages from Adam saying he wanted to come to her house and leave her a gift. 5RP 55. When she left work that evening she saw that a bag had been left on her van in a downtown parking garage. 5RP 55-56. Without touching the bag, she called 911 and began to retreat and leave the parking garage when

Adam "popped out" of a stairwell. SRP 56. LaRose screamed and fled, finding two men on an adjacent floor who agreed to accompany her out of the garage. SRP 57. When the police arrived, two officers escorted LaRose to her van and removed the bag and photographed the contents. SRP 58. The "most disturbing" contents for LaRose were "very skimpy panties and a lingerie set." SRP 59. Those items were of "grave concern" to LaRose because Adam had been leaving her messages saying that he wanted to touch her body. SRP 63. Police officers were unable locate Adam in or around the parking garage. SRP 98.

After the incident in the parking garage, LaRose moved her daughter into a "safe house" with instructions that she not return home or even go to school until the situation was resolved. SRP 99. Later that same night, at about 1:30 a.m., with LaRose alone in her house there was a knock at her backdoor. SRP 100. LaRose saw Adam through the glass-partitioned door. SRP 101. LaRose made a gesture like, "give me a moment," then retreated into her bedroom and called 911. SRP 101. Police arrived with lights flashing but did not catch Adam. SRP 102. LaRose asked the police to stay with her but they could not. SRP 103. At that point, LaRose was in fear for her life. SRP 104. She called her ex-husband who drove over to her house with an aluminum baseball bat. SRP 105. With her ex-husband on the couch, LaRose, who hadn't slept in

five days, went into her room to try to sleep. 5RP 105. From her bedroom she heard an "incredibly angry knock" at her backdoor. 5RP 106. She immediately called 911 and less than 30 seconds later a rock was thrown through her bedroom window, shattering two panes of glass. 5RP 106-07. It took police 20 minutes to arrive and, again, Adam was not located. 5RP 108.

The next morning, Adam left LaRose a message admitting that he had been hiding in the bushes until after police left. 5RP 108. He left another message that morning in which he said:

I saw that tall bald man driving a silver car. I see him coming into your house. You better not be sleeping with him. I'll get a gun. I'll find him. I'll shoot him. I'll kill that bitch.

5RP 108-09. Because Adam had been successfully evading the police, LaRose developed a plan to apprehend him. 5RP 110-11. She decided to accept his next phone call and agree to a meeting. 5RP 110-12. Later that same day, Adam called and suggested they meet at a coffee shop near her office at 5:00 p.m. 5RP 113, 120. LaRose arranged for some of her colleagues to be in and around the coffee shop. 5RP 120. When Adam arrived and sat down with LaRose in the shop her colleagues called the police. 5RP 122. Three officers arrived and arrested Adam. 5RP 122-23.

The jury found Adam guilty of stalking LaRose. In a bifurcated proceeding it was established that Adam had been released from jail on his previous stalking conviction on August 30, 2013. 8RP 20-21; Ex. 22. LaRose testified that after her withdrawal from representing Adam in July, 2013, his repeated phone calls professing his love for her were occurring several times per week beginning in August, 2013. 5RP 38-39.

C. ARGUMENT

1. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION BY FINDING ADAM COMPETENT TO STAND TRIAL.

Adam claims that the trial court erred by finding him competent to stand trial despite an expert's opinion that he was not competent. Adam is wrong. The trial court had the discretion to reject an expert's opinion that was unsupported by sufficient facts and applied an incorrect legal standard. The trial court did not err by finding that Adam had a sufficient understanding of the proceedings and was capable of assisting his attorney, and that the presumption of competency had not been overcome.

a. Proceedings Leading Up To The Competency Determination.

Although he had been appointed counsel, while his case was pending trial, Adam, over the course of a three-day hearing, requested and was granted the right to represent himself. 1RP 5-32. While interacting