



Fourth Court of Appeals
San Antonio, Texas

MEMORANDUM OPINION

No. 04-16-00071-CR

Christian **BAUTISTA**,
Appellant

v.

The **STATE** of Texas,
Appellee

From the 186th Judicial District Court, Bexar County, Texas
Trial Court No. 2014CR2575
Honorable Jefferson Moore, Judge Presiding

Opinion by: Luz Elena D. Chapa, Justice

Sitting: Karen Angelini, Justice
Luz Elena D. Chapa, Justice
Irene Rios, Justice

Delivered and Filed: June 21, 2017

AFFIRMED

Christian Bautista appeals his conviction for murder. He argues (1) the jury's verdict that he was competent to stand trial is against the great weight and preponderance of the evidence; and (2) the trial court erred by not ordering a second competency examination after the jury found him competent. We affirm the trial court's judgment.

BACKGROUND

Bautista was indicted for murdering Lauren Bump, a twenty-four-year-old graduate student who was jogging at O.P. Schnabel Park on New Year's Eve of 2013. Bautista filed a motion

suggesting he was incompetent to stand trial, and the trial court granted his request for a psychiatric evaluation. After completing the evaluation, Dr. Raleigh Wood concluded Bautista was not competent. The issue of Bautista's competency was tried to a jury, which after hearing all of the evidence found Bautista competent to stand trial.

Approximately three months after the competency trial, Bautista filed another motion alleging he was incompetent to stand trial and requesting another examination. At an informal hearing on the motion, Bautista's counsel asserted he was "still in the same position" after the competency trial as he was before the trial, he was unable to communicate with Bautista, and he did not believe Bautista was competent. Counsel stated a psychiatrist who had not testified at the competency trial believed Bautista was not competent. When the trial court asked counsel what had changed since the competency trial, counsel responded, "Because I'm not a psychiatrist, nothing. As far as I'm concerned, I still have the complete inability to communicate with my client or prepare his defense. That hasn't changed." During this hearing, Bautista was removed from the courtroom for "making sounds that were inaudible but disturbing to [the] proceedings." The trial court denied Bautista's motion.

The case proceeded to a jury trial on Bautista's guilt and punishment. The jury found Bautista guilty and assessed a punishment of life imprisonment and a \$10,000 fine. The trial court signed a judgment of conviction and imposed Bautista's sentence. Bautista timely appealed.

THE JURY'S COMPETENCY VERDICT

Bautista argues the jury's verdict finding he was competent to stand trial is against the great weight and preponderance of the evidence. "A defendant is presumed competent to stand trial and shall be found competent to stand trial unless proved incompetent by a preponderance of the evidence." TEX. CODE CRIM. PROC. ANN. art. 46B.003(b) (West 2006). A defendant is incompetent to stand trial if he does not have "(1) sufficient present ability to consult with [his] lawyer with a

reasonable degree of rational understanding; or (2) a rational as well as factual understanding of the proceedings against the person.” *Id.* art. 46B.003(a). Facts relevant to this determination include whether a defendant can (1) understand the charges against him and the potential consequences of the pending criminal proceedings; (2) disclose to counsel pertinent facts, events, and states of mind; (3) engage in a reasoned choice of legal strategies and options; (4) understand the adversarial nature of criminal proceedings; (5) exhibit appropriate courtroom behavior; and (6) testify. *See Morris v. State*, 301 S.W.3d 281, 286 (Tex. Crim. App. 2009). When a defendant argues on appeal that the jury’s competency verdict is against the great weight and preponderance of the evidence, we must defer to the jury’s credibility determinations. *See id.* at 292.

A. The Evidence at the Competency Trial

Four witnesses testified at Bautista’s competency trial. Dr. Raleigh Wood testified for the defense. The State’s witnesses included an expert witness, Dr. Michael Arambula, and two fact witnesses who had observed Bautista’s conduct after he was arrested.

1. Dr. Wood’s Testimony

Defense expert Dr. Wood, who is the Director of Medical Services for Bexar County’s detention facilities, testified Bautista was not competent to stand trial. Dr. Wood stated he saw Bautista on four occasions in April 2015 for a total of approximately four-and-a-half hours, but on one of those occasions, Bautista refused to speak to him. He also saw Bautista briefly before the competency trial. Dr. Wood stated he had “much difficulty communicating with [Bautista].” He explained:

Mr. Bautista’s speech is very disorganized. And when you’re asking him questions, he does not respond to questions in a manner that can often be easily understood. He may skip from one topic to another. There may be long delays in his speech before he responds. And his speech, at times, may be just nonsensical.

Dr. Wood testified that before meeting with Bautista, he had reviewed Bautista's medical records and "based upon the information . . . contained in the records" he had expected Bautista would perhaps engage in malingering or "feigning mental illness to avoid prosecution." Dr. Wood explained "malingering" means an individual is "feigning the symptoms of mental illness . . . to obtain some goal which in this case would be to perhaps avoid prosecution." He stated malingerers often complain of hearing voices or the devil's voice, overplay their hand, and inconsistently report such symptoms.

Dr. Wood further testified that in discussing Bautista's criminal charges with him, Bautista "had some basic factual knowledge that he was able to relay. Again, most of his information he was able to relay to me was relatively short, one or two word responses, and at which point he would kind of derail and go off on a tangent or began talking about something totally irrelevant." Dr. Wood stated Bautista made a statement of a "paranoid nature involving witchcraft," "hearing voices," and "having an implant in the back of his head," which led Dr. Wood to believe "that indeed he was psychotic."

Dr. Wood stated Bautista's disorganized speech was inconsistent with malingering because feigning disorganized speech "is very difficult, almost impossible to do." He relayed that Bautista's counsel had stated Bautista "made very irrelevant statements and appeared guarded, so he didn't trust anyone." According to Dr. Wood, Bautista had "much difficulty providing any kind of rational answer to . . . questions" involving detailed information. Dr. Wood stated he spoke to detention officers where Bautista was in jail and they indicated "[t]hey felt he indeed had [a] mental illness" based on a consistent exhibition of symptoms of mental illness. For example, he "would yell, make sounds, you know, sexual things, talk to himself, say things like, I remember I killed you." Dr. Wood stated the social workers who interacted with Bautista "didn't feel that [Bautista] was mentally ill. They felt he was anti-social, inappropriate, and very hostile to females." Dr.

Wood stated Bautista made vulgar comments to the social workers and masturbated in his cell when they were present.

Dr. Wood opined that Bautista was not competent to stand trial because he lacked the capacity to rationally understand the proceedings, his mental illness “would prevent him from being able to . . . assist his attorney in his case preparation,” he would be unable to testify, and he would be disruptive in court. He further opined that Bautista suffered from an “unspecified psychotic disorder.” Dr. Wood stated an antisocial personality disorder is not inconsistent with psychosis, and it is not uncommon for individuals to come to a mental health facility without ever having been previously diagnosed with a mental illness.

On cross-examination, Dr. Wood testified he did not interview Bautista’s family or watch the entire video recording of Bautista’s interview immediately after the murder, although he agreed such historical information was important in diagnosing antisocial personality disorder and mental illnesses. Dr. Wood also testified Bautista denied having a history of psychiatric hospitalizations and was not on medication. He further testified Bautista knew he had a lawyer, knew the name of his lawyer, was comfortable working with his lawyer, and was aware of the specific offense and the location of the offense. Dr. Wood stated disorganized speech was something that Bautista could have practiced in his cell. He also stated Bautista “was of average intelligence” and there was no indication he had an intellectual or developmental disability. Dr. Wood testified that Bautista’s medical records, which included thousands of pages from the past ten years, including time he spent incarcerated for a prior offense, reflected his thought processes were coherent, organized, and logical.

2. Dr. Arambula’s Testimony

Dr. Arambula, who is the president of the Texas Medical Board and is board certified in general and forensic psychiatry, testified Bautista was competent to stand trial and was

malingering to avoid prosecution. He testified he saw Bautista twice: once in July 2015 for about one-and-a-half hours and once before the competency trial. Dr. Arambula stated he reviewed Bautista's medical records and the six-hour video of Bautista's interview conducted after the murder, and found no indication of a mental illness. He stated the manner in which Bautista responded to questions during his evaluation "was extremely different from what I had seen in the video right after he was arrested." Dr. Arambula described Bautista's responses to his questions:

So, he was sort of provocative. He answered my questions with a few what sounded to be like direct answers to questions I had. And then he'd go off and he'd start talking about things some of which I couldn't understand. And then he would laugh. And then I would ask for clarification and then he would clarify. For example, that means explain what it is I didn't hear.

Sometimes he would put two words together like — like Napoleon Dynamite. When he liked — his favorite animal was the liger and then he could explain it was a lion and a tiger. Well, he did the same thing, he could explain to me what these words were that I had never heard before.

He further explained that in mixing up his words, "Bautista was trying to amuse himself and be provocative." Dr. Arambula testified Bautista knew he had a lawyer and his lawyer's name; he knew what a jury does and what a judge does; and he knew both the charged offense and the range of punishment. He stated Bautista's "responses clearly indicated to me that he knew what was going on."

Dr. Arambula opined Bautista was malingering because of inconsistencies "in the types of symptoms that he reports." He stated Bautista was unable to explain his hallucinations to a degree necessary to confirm he actually had them. He further stated Bautista does not have a mental illness or a medical disease that causes abnormalities in thinking, but he does "have a long history of drug abuse." Dr. Arambula testified Bautista "has a very robust antisocial personality . . . that would be synonymous with the terms 'psychopath' or 'sociopath.'" He testified Bautista's complaints of suicidal and homicidal ideations while he was in jail were goal-oriented toward changing his housing arrangements. According to Dr. Arambula, this pattern of behavior was consistent with

Bautista's conduct when he was incarcerated for a prior offense. He also opined that any courtroom disruptions were the result of Bautista's antisocial personality and not a mental illness. He stated his opinion of Bautista was reinforced after meeting with him immediately before the competency hearing.

3. Dustin Treadwell's Testimony

Dustin Treadwell, a certified peace officer with the Bexar County Sheriff's Department, testified he interacted with Bautista when Bautista was in jail in January 2014. Treadwell stated that when Bautista was "booked," Bautista was nervous, jumpy, and "very emotionally agitated," as many people are at the time of booking. According to Treadwell, Bautista was coherent at that time. Treadwell stated that after Bautista was incarcerated, he interacted with Bautista on a weekly basis. He described Bautista as "pretty much a loner." He stated that when Bautista asked him "for items," Bautista was polite and coherent, and Bautista was generally "situationally aware."

Treadwell also testified he considered the disruptive noises Bautista made in the courtroom "selective" and "are pretty consistent with the noises he makes when he's inside the detention facility." Treadwell explained Bautista acts out "when he knows he's going to be observed [or] watched, [and] he tends to act out a little more with the barking noises [and] the flipping of the hair." Treadwell stated Bautista was quiet and would not make those noises when he was by himself and did not know Treadwell was listening.

4. Debbie Bailey's Testimony

Debbie Bailey, a clinical nurse specialist who works at the Bexar County Jail, testified about her interactions with Bautista. She met with him several times starting in March 2014 when Bautista was placed on "full suicide precautions." She testified Bautista was able to tell her about his history, where he lived in the past, and the offense he was charged with; he was able to communicate fairly well; and he did not have any thought disorganization. Bailey described

Bautista as very goal-oriented, and testified he requested benzodiazepines (“downers”), wanted to move out of the general population into a cell by himself, and acted provocatively to get a rise out of her. She explained he would complain of hallucinations and express suicidal and homicidal ideations to get what he wanted. Bailey stated that at one of their meetings, Bautista was giggling, said he was doing well, and said he sees and talks to aliens. She described Bautista as “alert and oriented,” and noted inconsistencies in whether he reported hallucinations. Bailey’s diagnosis was that Bautista was malingering.

B. Analysis

Bautista argues he presented evidence that he did not have a sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding or have a rational and factual understanding of the proceedings. Although Dr. Wood testified Bautista could not understand the proceedings and testify or otherwise assist his lawyer in his defense, it was undisputed Bautista understood the charges against him and the potential consequences of the pending criminal proceedings. *See* TEX. CODE CRIM. PROC. ANN. art. 46B.003(a); *Morris*, 301 S.W.3d at 286. Furthermore, Dr. Arambula’s and Nurse Bailey’s testimony that Bautista had an anti-social personality, but had the ability to communicate coherently and rationally, directly contradicted Dr. Wood’s testimony. Dr. Wood also testified, consistent with Nurse Bailey’s testimony, Bautista’s medical records demonstrated signs of malingering—specifically overplaying his hand and inconsistently reporting symptoms—for purposes of obtaining medication and preferred housing. Dr. Wood was impressed and surprised by the disorganization of Bautista’s speech because it was nearly impossible to feign, but he admitted Bautista’s disorganized speech could have been practiced. Finally, Dr. Wood’s testimony about Bautista’s behavior was disputed by Dr. Arambula’s and Officer Treadwell’s testimony that Bautista’s conduct is significantly different when he knows he is being watched or observed.

Bautista argues Dr. Arambula's lone statement during his testimony that Bautista did not have a mental illness is not the applicable statutory standard for incompetency. Dr. Arambula not only opined Bautista did not have a mental illness, but also testified to specific facts that supported his opinion that Bautista was competent to stand trial. Those specific facts include Bautista's ability to communicate coherently and his understanding of the offense for which he was charged and the range of punishment. This testimony is relevant to the legal standard of whether Bautista had a sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and a rational and factual understanding of the proceedings. *See* TEX. CODE CRIM. PROC. ANN. art. 46B.003(a); *Morris*, 301 S.W.3d at 285-86. Although Bautista complains that all of the State's witnesses testified about interactions with Bautista that occurred long before the competency trial, Dr. Arambula specifically testified he met with Bautista just before the competency trial and the meeting reinforced his opinion that Bautista was competent to stand trial. We must defer to the jury's credibility determinations. *See Morris*, 301 S.W.3d at 292.

The jury at the competency trial heard undisputed evidence that Bautista understood the charges against him and the potential consequences and understood the adversarial nature of criminal proceedings. There is also evidence regarding Bautista's ability to coherently and rationally disclose to others pertinent facts, events, and states of mind, particularly when he was seeking to obtain specific goals. Although the record indicates Bautista did not exhibit appropriate courtroom behavior, there was evidence that this behavior was selective. *See id.* at 286. Having considered all of the evidence relevant to Bautista's competency, we cannot say the jury's competency verdict is against the great weight and preponderance of the evidence.

FAILURE TO ORDER ANOTHER EXAMINATION

Bautista also argues the trial court erred by not ordering a second competency examination after a jury found him competent. Bautista contends a different doctor who did not testify during

the competency trial believed Bautista was not competent and the record shows Bautista was acting out during the second hearing. “Should the formal competency trial result in a finding of competency, the trial court is not obliged to revisit the issue later absent a material change of circumstances suggesting that the defendant’s mental status has deteriorated.” *Turner v. State*, 422 S.W.3d 676, 693 (Tex. Crim. App. 2013). In his second motion raising incompetency, Bautista did not allege any material change of circumstances. At the hearing on Bautista’s second motion, Bautista’s counsel affirmatively stated there were no changed circumstances in terms of his inability to communicate with Bautista. Furthermore, it was established at the competency trial that Bautista’s courtroom disruptions were selective and due to his anti-social personality, and not based on a lack of competence to stand trial. Because these facts were already weighed by the jury at the competency trial and counsel admitted there was no material change of circumstances, the trial court was not required to order a second competency examination. *See id.*

CONCLUSION

We affirm the trial court’s judgment.

Luz Elena D. Chapa, Justice

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