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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Yuba)

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THE PEOPLE,

Petitioner,

v.

THE SUPERIOR COURT OF YUBA COUNTY,

Respondent;

DUSTIN WILLIAM SPARKS,

Real Party in Interest.

C057766

(Super. Ct. No. CFR0600126)

In this writ proceeding, we resolve whether respondent (the superior court) properly ruled that the doctrine of collateral estoppel precluded petitioner (the People) from trying real party in interest (Dustin William Sparks) for felony murder based on a plan to steal marijuana plants that resulted in the killing of two people. The superior court's ruling was based on the fact that separate juries in separate trials found that two others who also were involved in the plan to steal marijuana (Michael Huggins and Matthew Griffin) were either not guilty of

any crimes, including felony murder, or guilty only of the lesser included offense of voluntary manslaughter.

We hold that the superior court erred in its ruling. As we will explain, the doctrine of collateral estoppel does not apply here where Sparks's alleged guilt is not premised solely on vicarious liability and the evidence to be introduced at his trial is different than the evidence in the other two trials. We therefore grant the People's petition for a writ of mandate to compel the superior court to vacate its order barring the People from trying Sparks for crimes greater than voluntary manslaughter.

#### FACTUAL AND PROCEDURAL BACKGROUND

In separate pleadings, the People charged Huggins, Griffin, and Sparks each with two counts of felony murder. Griffin was acquitted and Huggins was found guilty of two counts of voluntary manslaughter with attached enhancements for personal use of a firearm. Sparks has yet to go to trial.

The evidence at Huggins's trial, of which we have taken judicial notice, showed the following:

In September 2005, Huggins lived in a house in Antelope with his girlfriend, Angelic Rampone, Matthew Griffin, and Griffin's girlfriend, Amy Butler. Levill Hill would sometimes spend the night at the house.

In the house one day there was a discussion in which Butler told Griffin, Huggins, Rampone, and Hill that she knew of a house in Olivehurst where they could steal marijuana plants. The Olivehurst house belonged to Michael Hance. In back of the

Olivehurst house was a trailer occupied by two men who had gone to school with Butler -- Scott Davis and Michael Hance's son, Christopher Hance. Davis lived rent free in the trailer in exchange for guarding marijuana plants that were on the property.

One evening in the beginning of September 2005, Butler, Griffin, Huggins, Rampone, and Hill drove to the Olivehurst house but decided not to steal the marijuana plants at that time. Later, Huggins, Griffin, and Butler talked about returning to the Olivehurst house, tying "the boys up," and trying to steal the marijuana plants. Butler said she wanted nothing more to do with the plan.

In the early morning of September 27, Huggins, Rampone, Hill, and Griffin drove back to the Olivehurst house. En route, they picked up Huggins's cousin, Sparks. When they got to the Olivehurst house, they parked the car, and Huggins, Sparks, Griffin, and Hill got out. Huggins had a .45-caliber pistol and Sparks had a toy gun that looked real. Hill was handed duct tape and Griffin rope "just in case" they needed to tie anybody up. Hill threw the duct tape back inside the car. They all then walked past the house and decided that none of them were going to go ahead with the plan to steal marijuana. They then split up in two groups -- Huggins and Sparks ahead and Hill and Griffin behind -- and all headed back toward the Olivehurst house.

When they got to the house, however, Huggins kneeled down between the south and north gate to the house. Sparks stood right by Huggins. Hill and Griffin walked by them, and Hill asked what they were doing. Huggins replied, "We're going to do it." Hill responded, "No, you're not." Hill and Griffin then walked away. In Hill's view, he and Griffin abandoned the plan, but Huggins and Sparks did not.

Huggins walked through the gate to the side of the house. Sparks stayed at the gate. While Sparks was at the gate, someone hit him.

After Sparks was hit, Hill heard a gunshot. Hill and Griffin ran back to the car. Sparks and Huggins followed. They drove back to the Antelope house.

Michael Hance was home at the time of the shooting and described what he heard and saw. He was in the house talking with his son while Davis was sleeping in the trailer. Michael and Christopher Hance heard one of the gates open, so Christopher went out to investigate. Michael Hance then heard "scuffling" "between the two gates" and heard a shot.

Michael Hance ran outside and saw Huggins go into the trailer, heard "some yelling," and then "a shot or two" inside the trailer. As Michael Hance started going toward the trailer, Christopher Hance, Huggins, and Davis "poured out" of the trailer. Davis, who was holding his neck, fell to the ground.

Michael Hance called 911. When police arrived, they found Davis dead. Christopher Hance was bleeding profusely from his lower abdomen and right leg and died from blood loss.

Based on this and other evidence introduced at trial, the jury in Huggins's case was instructed on felony murder with the underlying felony being robbery or burglary or attempted robbery or burglary and on voluntary manslaughter based on intent to kill or conscious disregard for life. The jury found Huggins guilty of two counts of voluntary manslaughter while personally using a firearm.

As a result of this verdict and a not guilty verdict in Griffin's case, Sparks filed a motion to preclude the People from trying him for any crimes greater than voluntary manslaughter, arguing that collateral estoppel prevented them from relitigating issues previously decided in Huggins's and Griffin's trials.

The People opposed the motion, arguing there was evidence excluded from both of those trials that could come in during Sparks's trial. This evidence included statements made by Sparks during a police interview. In that interview, Sparks initially explained that he, Huggins, Griffin, and Hill all planned to participate in stealing the marijuana with his role being to "grab the plants." When they got to the street, Griffin got scared, "punk[ed] out," and went back to the car.<sup>1</sup> Sparks and Huggins stood by the gate. Huggins went onto the property. As Sparks was standing outside the gate, he was confronted by someone wanting to know who he was, leading to a

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<sup>1</sup> Sparks also "didn't want to do it," but apparently never communicated that to Huggins or anybody else.

short physical altercation. Sparks then heard gunshots and ran back to the car. When Huggins returned to the car, he said to Sparks, "[W]here the Fuck were you a[t] Dustin?" Not wanting Huggins to think he "just punked out," Sparks said that he got into a fight.

Despite this other evidence, the superior court granted Sparks's motion, ruling that "the People are collaterally estopped from pursuing a conviction for homicide [against Sparks] . . . on the basis [that] the homicides allegedly occurred during the commission of a robbery, burglary, or an attempt of either crime."

The People filed a petition for a writ of mandate and an application for a stay of Sparks's trial, seeking to compel the superior court to vacate its order barring them from trying Sparks for felony murder. We issued an alternative writ and stayed Sparks's trial.

#### DISCUSSION

In a well written petition, the People contend that the superior court erred in precluding them from trying Sparks for felony murder based on collateral estoppel. We agree.

The doctrine of collateral estoppel precludes a party from relitigating matters litigated and decided in a prior proceeding. (*People v. Sims* (1982) 32 Cal.3d 468, 477.) The doctrine can apply if: (1) the issue is identical to the one which is sought to be relitigated; (2) the prior proceedings resulted in a final judgment on the merits; and (3) the party against whom collateral estoppel is asserted was a party or in

privity with a party at the previous proceedings. (*People v. Taylor* (1974) 12 Cal.3d 686, 691.) The issue of whether collateral estoppel applies is a question of law that we review de novo. (*Jenkins v. County of Riverside* (2006) 138 Cal.App.4th 593, 618.)

Relying on *Taylor*, the superior court found that collateral estoppel applied here because it would preclude a "third trial on these same facts" and would prevent inconsistent judgments, "eliminat[ing] the risk of undermining the integrity of the justice system."

Contrary to the superior court's reasoning, *Taylor* does not apply. "*Taylor* expressly limited the application of the doctrine to 'the particular circumstances of the instant case where an accused's guilt must be predicated on his vicarious liability for the acts of a previously acquit[t]ed confederate.'" (*People v. Lawley* (2002) 27 Cal.4th 102, 163, quoting *People v. Taylor, supra*, 12 Cal.3d at p. 698.) *Taylor* also impliedly limited application of the doctrine to situations in which there were no "differences in evidence" at the trials.<sup>2</sup> (*Taylor*, at p. 698.)

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<sup>2</sup> The *Taylor* court stated: "It is unlikely that the application of the doctrine of collateral estoppel to the case at bar will result in spreading the effects of a possibly erroneous acquittal, the third of the reasons urged for not relaxing the identity-of-parties requirement. Contrary to the contention of the People the inconsistency in the results of [another defendant's] trial and defendant's trial *cannot be explained by differences in evidence* or jury instructions." (*People v. Taylor, supra*, 12 Cal.3d at p. 698, fns. omitted.)

Here, Sparks's culpability was neither based solely on vicarious liability nor limited to the evidence at Huggins's or Griffin's trials. As to Sparks's own involvement in the crimes, there was evidence that he decided to go ahead with the plan to steal marijuana and he was involved in an attempted burglary or robbery. After Griffin and Hill ran back to the car, Sparks remained by the gate and got into a scuffle with another person, likely Christopher Hance. Sparks's statements made during a police interview, evidence that was not introduced at Huggins's or Griffin's trials, further explained Sparks's involvement. Sparks told police that when he was standing outside the gate he was confronted by someone wanting to know who he was, and there was a short physical altercation before the gun was fired. His statements also indicate he never communicated to Huggins that he did not want to go through with the plan, which was apparent on Huggins's return to the car when he asked Sparks, "[W]here the Fuck were you a[t] Dustin?"<sup>3</sup> Based on the foregoing evidence

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<sup>3</sup> Sparks contends that his statements made to police officers were inadmissible because the corpus delicti rule is not satisfied here. He is wrong.

The corpus delicti rule requires proof by independent evidence of "the fact of injury, loss, or harm, and the existence of a criminal agency as its cause." (*People v. Alvarez* (2002) 27 Cal.4th 1161, 1168.) "The independent proof may be circumstantial and need not be beyond a reasonable doubt, but is sufficient if it permits an inference of criminal conduct." (*Id.* at p. 1171.) "There is no requirement of independent evidence 'of every physical act constituting an element of an offense,' so long as there is some slight or prima



of Sparks's involvement, this is not a case like *Taylor* "where an accused's guilt [is] predicated on his vicarious liability for the acts of a previously acquitted confederate" (*People v. Taylor, supra*, 12 Cal.3d at p. 698) or a case in which the evidence presented at the other trials is identical to the evidence that implicates the defendant remaining to be tried. Collateral estoppel therefore does not limit the People from trying Sparks for crimes greater than those for which Huggins was convicted or for crimes of which Griffin was acquitted.

#### DISPOSITION

The petition is granted. Let a peremptory writ issue directing the superior court to: (1) vacate its order precluding the People from trying defendant Sparks for felony

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facie showing of injury, loss, or harm by a criminal agency." (*Ibid.*)

Here, leaving aside Sparks's statements to police officers about his involvement in the crimes, the evidence tended to show the following: Sparks and others planned to steal marijuana at the Olivehurst property. On arrival, Sparks stayed by the gate and was hit by someone during a scuffle. Huggins meanwhile went into the trailer where Scott Davis was residing, and when they emerged, Christopher Hance and Davis were mortally wounded. These facts satisfied the People's burden to make "some slight or prima facie" showing of "injury, loss, or harm by a criminal agency." (*People v. Alvarez, supra*, 27 Cal.4th at p. 1171.)

murder; and (2) enter a new order denying Sparks's motion to preclude the People from trying him for any crime greater than voluntary manslaughter. Upon finality of this opinion, the stay previously issued is vacated.

ROBIE, J.

We concur:

RAYE, Acting P.J.

MORRISON, J.