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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHAEL GRANT,

Defendant and Appellant.

B333087

(Los Angeles County
Super. Ct. No. BA450350)

APPEAL from a judgment of the Superior Court of Los Angeles County, Michael D. Carter, Judge. Affirmed.

Kathy R. Moreno, under appointment by the Court of Appeal, for Defendant and Appellant.

Rob Bonta, Attorney General, Lance E. Winters, Chief Assistant Attorney General, Susan Sullivan Pithey, Assistant Attorney General, Scott A. Taryle and Blythe J. Leszkay, Deputy Attorneys General for Plaintiff and Respondent.

The jury found Michael Grant guilty of four counts of human trafficking against B.S., J.P., A.F., and J.W. (Pen. Code,¹ § 236.1, counts 1-3 & 8), and possession of a firearm by a felon (§ 29800, subd. (a)(1), count 4). The jury found true multiple aggravating factors.² Grant was sentenced to 34 years eight months in prison.

On appeal, Grant contends: (1) the prosecutor's remarks in closing argument violated the Racial Justice Act; (2) the prosecutor's remarks constituted misconduct; (3) the trial court abused its discretion by admitting gang evidence; and (4) cumulative error. We affirm the trial court's judgment.

FACTS³

A. *Prosecution*

1. B.S.

B.S. met Grant when she was 20 years old. They began dating a few months later and fell in love. B.S. had lived in transitional housing since she was 13 years old. At the time she met Grant, she lived in transitional housing with her son. Grant was significantly older than B.S. and was not permitted to live in

¹ All further statutory references are to the Penal Code unless otherwise indicated.

² Grant was found not guilty of criminal threats in counts 7 and 9. (§ 422.) The prosecution was unable to proceed on counts of criminal threats in counts 5 and 6.

B.S.'s apartment. B.S. and her son lost their housing after Grant began living with them. After B.S. lost her apartment, she and Grant began "work[ing] together." B.S. prostituted herself and gave all of her money to Grant. At the beginning, B.S. and Grant had a boyfriend/girlfriend relationship, so he did not set rules for her sex work like a pimp would.

The relationship went well until B.S. had an incident with a potential client. The man drove past B.S. and slapped her. B.S. called Grant to come help her. While B.S. was waiting for Grant to arrive, she became aware that there was a sting operation in progress. B.S. hid until Grant arrived. Grant became very angry and accused B.S. of setting him up to get caught in the sting. B.S. tried to explain what had happened, but Grant back-handed her across the mouth, cutting her upper and lower lips. Grant stripped B.S. of all of her clothing and drove her toward the Mojave Desert. They were in the car for about an hour and a half. Grant told B.S. that she was bleeding so much a coyote would get her for "playing with him." The incident ended when Grant's car got a flat tire, and a man stopped to help them fix it.

Their relationship changed after that incident. Before the sting incident, B.S. only prostituted herself on weekends. She testified that before the incident "[the sex work] was a choice [by] me. At that very moment, I still had power over myself; and I

³ At trial, it was uncontested that Grant was guilty of pimping with respect to all four victims. We therefore limit the facts to those relating to Grant's deprivation or violation of the victims' personal liberty and the criminal threats charges. Grant does not challenge his conviction for possession of a firearm by a felon, so most of the evidence supporting that charge is also omitted from the statement of facts.

could say when, where, how and why.” After the incident, B.S. had to work a lot more often. She and Grant got an apartment in Las Vegas. B.S. had planned to retire in Las Vegas. She did not want to prostitute herself anymore. Despite her wishes, B.S. continued to work as a prostitute in Las Vegas. She also drove to Los Angeles to work sometimes. She gave Grant all of the money. Because Grant controlled the money, he controlled whether B.S. had a phone. B.S. only asked for a phone once because Grant had an unstable temper and she was afraid of triggering him and being beaten.

B.S. remembered three additional incidents in which Grant was extremely violent towards her. In the first of these additional incidents, she and Grant were standing outside her mother’s house and got into an argument. Grant lifted B.S. into the air, shook her, and threw her into the grass. B.S. did not tell her parents what Grant had done to her because they already suspected that he was a violent person and she did not want to confirm their fears.

In the second additional incident, B.S. and Grant were sleeping on the floor at a family member’s house. B.S.’s son was with them and was sleeping in another room. B.S. was having trouble sleeping on the floor, so she got into bed with her son in the other room. Grant came into the room where B.S. was sleeping and pulled her out of the bed. He asked her why she was there and why she was being so secretive. Grant questioned B.S. about some money that was missing. B.S. did not know anything about the money and told Grant that she had no idea what he was talking about. He said that if she did not find the money he would “beat [her] ass.” As B.S. started to look for the money, Grant kicked her in the ribs and knocked her to the floor.

At that point, B.S.'s two-year-old son was watching them. She testified, "I will never forget the look on my son's face trying to ignore his mother getting stomped out by the man that potty trained him." Grant kicked B.S. so hard that she later had shoe-shaped bruises on her torso and thigh. He lifted B.S. up and put a gun to her head. When B.S. did not react, Grant got a knife from the kitchen and acted like he was going to gut her. Finally, Grant decided to leave. When he put on his shoes he discovered the missing money inside them. He looked at B.S. and said, " 'Damn, my bad.' "

B.S. did not tell anyone what happened. She did not have a phone and was not in contact with her family or friends. She was afraid Grant would hurt her son to upset her, so she took her son to live with her parents. B.S. intended to go with her son, but Grant threatened her. He said he would hurt B.S.'s family if she left him. Grant and B.S.'s families were in rival gangs. Grant threatened that his gang would kill or hurt her family.

On the night of the second additional incident, Grant also took B.S. to meet a girl named A.F., who B.S. thought was obsessed with Grant. B.S. did not want to meet A.F. or have any involvement with her, but Grant forced her to go with him. After a little while, A.F. also prostituted for Grant and gave him all her earnings. A.F. had four sons who she had to leave when she started working for Grant. Another girl named Essence joined B.S. and A.F. for a few weeks. All three women gave their earnings to Grant. Eventually, women called Sarah, Maya (J.P.), and Mocha (J.W.) also prostituted for Grant. Grant always carried a handgun when he supervised the women performing sex work.

B.S. helped Grant oversee the other women. She did not want to do it, but Grant said she had to watch and guide them “[u]nless I wanted to get my ass whooped for being defiant, [so] that’s what I did.” B.S. was allowed to drive from Las Vegas to Los Angeles with A.F. once or twice to work when business was slow in Las Vegas. It did not occur to her to go to the police instead of working.

The third additional incident began after A.F. got arrested. Grant was angry at B.S. because she had not supervised A.F. Their rent was due, and despite the fact that B.S. had given Grant a lot of money, he did not have enough money to pay rent. B.S., A.F., Essence, Maya, and Grant went to Los Angeles to work. B.S. was only able to make \$300 to \$400 that night. They all knew they were going to get evicted, so the ride home was very tense. They went home and went to sleep. The next morning, Grant was unable to find the money B.S. had made the night before. He forced B.S. to get out of the shower and look for the money with him. B.S. had to search for the money while she was still naked. Grant threatened that if B.S. did not find the money he would beat her. Grant kicked B.S. to the floor. B.S. crawled on the floor, desperate to find the money. Grant lifted B.S. up against the wall and hit her in the face twice. B.S. got away and started running around the room. She picked up an air mattress to shield herself. Grant kicked the mattress and B.S. fell into a wall. B.S. curled up into a ball. Grant kicked and punched her. He punched her in the vagina with an uppercut. B.S. began to bleed profusely, which she thought must have made Grant believe that she was miscarrying because he said, “‘[B]itch, fuck you and that baby.’” Grant continued hitting B.S. He grabbed some crutches from the corner and hit B.S. across the

back until she could not breathe. B.S. yelled so loudly that A.F. came into the room. At that point, B.S. was pouring blood. There was blood on the walls and the floor. When A.F. saw all the blood, she started to scream. A.F. searched for the money and yelled for Grant to stop beating B.S.

The incident ended when A.F. found the money in a sock under the mattress. B.S. began to vomit and went into convulsions. When she regained consciousness she was in the bathtub and Grant was telling her that all she needed to do was find the money and he would not have beat her. He told B.S. she should not have been playing games with him. Grant took out his phone and took pictures of B.S. lying naked in the bathtub, covered in blood. Grant told B.S. he would post the photos on Instagram in a feed where pimps discussed prostitutes who disobeyed the rules.

A.F. pleaded with Grant to take B.S. to the hospital. B.S. remembered Grant “acting like he was so in the right that he was—that he had did no wrong, what he did was what he was supposed to do.” Grant told A.F. to get B.S. dressed and they dropped her off at a health clinic where the women routinely went to be checked for sexually transmitted diseases. Once inside the clinic, B.S. lost consciousness. The clinic employees rushed B.S. to a hospital where she had emergency labia repair. B.S. had lost 35 percent of her blood. She was hospitalized for four days. The swelling was so severe that B.S. had to wear a catheter for two months to be able to urinate. On the second day that she was in the hospital, Grant and A.F. visited B.S. Grant told B.S. that he and A.F. were going to California and that a family member of his would pick B.S. up when she was released from the hospital.

Grant did not tell B.S.'s family that she was in the hospital. Either A.F. or Grant gave B.S. A.F.'s burner phone. B.S. did not use the phone until her last day in the hospital when she called her mom. B.S. knew that if she forgave Grant the beating was going to get worse. When her mother arrived, B.S. told her that Grant was her pimp and disclosed that she had surgery to have her labia repaired. She could not bring herself to tell her mother what happened. The nurses explained the situation to her mother. B.S. planned to go to her parents' house for six weeks to heal. B.S.'s mother wanted B.S. to call the police but she refused because she still loved Grant.

B.S. ended her relationship with Grant after she left the hospital. He agreed to let her go. B.S. did not have any money because she had given it all to Grant. Although they were no longer a couple, B.S. still loved Grant and supported him. B.S. went with Grant when he picked up Mocha (J.W.), a new woman who would be performing sex work for him.

During the five months they were together, Grant hit B.S. between five and seven times in addition to the four beatings she described. Grant beat B.S. as an example to the other women. Even if another woman broke the rules, B.S. was the one who Grant beat. B.S. never saw Grant beat anyone else, but she knew he did. Grant told B.S. when he beat the other women. Grant said he beat Essence when she said something disrespectful and that he smacked A.F. once when she was unruly. On another occasion Grant smacked A.F. and made her strip naked and sit in the corner.

Grant routinely punished the women by making them stand in the corner. B.S. described the punishment: "[Grant would put us] [p]hysically in a corner like you would do a three-

year-old when they did something they were not supposed to.” The women were not permitted to eat or go to the bathroom until Grant told them they could.

B.S. had one pimp before Grant. She met her “turnout pimp” when she was 16 years old. B.S. engaged in prostitution from 2012 to 2014. She stopped performing sex work when she was 18 years old. She had just been released from jail and was pregnant with her son. B.S. did not want to do anything to risk losing her son. She had not done that kind of work for two years when she met Grant. After B.S. left Grant she continued to perform sex work, but she worked independently, without a pimp. When B.S. worked as a prostitute after she left Grant she kept all of the money she earned.

B.S. described her life as a prostitute working under a pimp: “Now, everybody knows that you can get slapped or you can get punched or something like that because why are doing something you are not supposed to be doing? Same thing—the way they look at it, we are their children, if your child messes up, you will bust.”

2. J.P.

J.P. was a sex worker, and was working independently when she met Grant. Grant became her second pimp. J.P. prostituted herself to provide for her sister, her sister’s kids, and her own child. When J.P. met Grant he was in a car with Sarah, who was also a sex worker. Grant asked J.P. to work for him. He explained that if she worked for him, “It’s not by force. It’s by choice.” Grant told J.P. that in a few weeks to a month she could

get her own place and a car, which she really needed to be able to provide for her four-year-old son.

J.P. did not start working for Grant at that time, but instead went back to work for her prior pimp. Grant told J.P.'s pimp that she was "out of pocket"—meaning that she had discussed working for Grant behind her pimp's back. J.P. pretended not to know what Grant was talking about so that her pimp would not beat her. Later, J.P. left her pimp and went to stay with her sister, who was struggling to pay her bills. J.P. thought of Grant again and called him to take up his offer to be her pimp.

J.P. worked for Grant for about a month. When J.P. first started working for Grant he went over his rules with her. She quickly learned Grant was very violent. She was not present when Grant put B.S. in the hospital, but she heard about it. Grant told J.P. that he thought B.S. was stealing from him, so he had kicked her in the vagina. J.P. saw Grant hit Essence, another sex worker. J.P. also saw Grant hit B.S. in the face on several occasions. One time, Grant made J.P. and A.F. stand in the corner with their hands at their sides for a very long time and threatened to beat them if they disobeyed him. He told A.F., "You want to leave, then bitch strip naked. That's the only way you are leaving." Grant physically forced J.P. to do sex work by beating her. Grant made J.P. stand in the corner because she did not make her quota. He deprived her of sleep. Grant threatened that if J.P. fell asleep, "You will be asleep forever You are not going to be able to wake up." J.P. believed that meant he would kill her. She was terrified. She was trapped in a violent situation.

Grant had forced J.P. to give him her California identification card when she started working for him. He kept it the whole time she was with him. No other pimp she worked for took her identification. J.P. gave Grant her identification because “we knew what you are supposed to do exactly and everything that your [pimp] tells you to do. If not, you are in trouble.” J.P. saw Grant take A.F.’s identification card, too. Grant kept J.P.’s mail without her permission.

J.P. and A.F. gave all their earnings to Grant. Whenever she got a client, J.P. had to text Grant her location and the amount she would be paid. She texted again after she was done with the client. Grant set prices for the sex acts that J.P. performed. She could only refuse to perform a sex act if Grant had a rule against it or if it was dangerous to her health despite wearing a condom. J.P. testified that “[w]hen you have a [pimp]—it’s like kind of like being . . . locked up in jail.” She did not have freedom to come and go as she pleased. She had to stay at Grant’s side. She never made her quota, so she was never allowed to do what she wanted to. She was Grant’s property. Grant only allowed J.P. to see her son if she made money. Grant did not keep his promise to get J.P. her own place where she, her sister, and her sister’s children could live.

J.P. thought about going back to her prior pimp, and complained about Grant to A.F. a lot. One night, J.P., Grant, and A.F. went to a parking structure in Long Beach. Grant asked for J.P.’s phone, so she gave it to him. She explained: “If a pimp asks to see your phone, you supposed to give him your phone with no lip, no talkback, no knock.” If a sex worker does not relinquish her phone, her pimp may beat her. Grant threw J.P.’s phone like it was a baseball and it shattered. This was devastating for J.P.

because she had no other way to talk to her son. J.P. went back to the passenger's seat of the car, but Grant told her to get out. Grant kicked J.P. to the ground and continued to kick her as she lay on the cement. He said he heard she wanted to go back to her prior pimp. J.P. admitted that it was true. That angered Grant even more and he began stomping on her over and over. A.F. sat in the front seat and acted as if what Grant was doing was fine.

J.P. continued to work for Grant after he beat her. She wanted to kill herself, but she did not because of her son. She started to plan a way to escape. She told Grant that she wanted to be with her baby on her birthday. Grant took her to be with her son after she made more money for him, and she was able to get away.

J.P. did not call the police after she escaped. The police came to her son's father's house a few weeks later looking for her. The officers had J.P.'s identification card. J.P. was hesitant to tell the officers about Grant because she was still afraid of what he would do to her. She thought he would send his gang after her. She knew that he was a Hoover. J.P. had seen Grant with a weapon. Grant had fired the gun in front of J.P., A.F., and Essence.

After she left Grant, J.P. stopped performing sex work for several months, but she had to go back to it to make a living. At the time of trial, J.P. had not performed sex work for years. J.P. was never able to get custody of her son, but she was still trying to at the time of trial.

3. J.W.

J.W. met Grant outside a McDonald's when she was 18 years old. J.W. was walking, and Grant was in a vehicle with B.S. Grant asked for J.W.'s phone number and asked her to come smoke with him. J.W. gave her phone number to Grant. She thought he was interested in her. J.W. got into Grant's car and smoked with Grant and B.S. Grant did not identify himself as a pimp, but J.W. heard him on the phone with a young woman, and the conversation made her suspect that he was a pimp. J.W. became concerned and told Grant she wanted to go home. Grant threatened J.W.: "You are not going to see home[.]" which scared her. He took J.W.'s phone and told her to go to Figueroa Street, where prostitutes work. J.W. did not want to prostitute herself. She told Grant that she did not want to do it, but J.W. did not have many family members in the area and she thought Grant knew that, so she did not protest very much. Grant told J.W. she had to make a certain amount of money before he would give her phone back to her. J.W. again said that she wanted to go home, but Grant did not take her home. He gave her condoms and sent her out to work with B.S. Grant told J.W. to use the condoms "for sexual and oral matters." He instructed her not to talk to any Black guys because they might be other pimps. Grant told J.W. to call him when she was done and to give him the money.

J.W. performed sexual services for about five customers on Figueroa. Grant drove around the area while J.W. was soliciting clients. J.W. made about \$800 that night. She gave all the money she earned to Grant because he still had her phone and she was afraid of him. J.W. was also afraid that Grant would

hurt her like he hurt B.S. Grant told J.W. he hit B.S. in the “pussy,” and that B.S. had to get stitches. After Grant injured her, B.S. was unable to engage in sexual intercourse. She could only perform oral sex.

Grant did not take J.W. home that night. He took J.W., B.S., and A.F. to King’s Motel. They spent the night there. Grant stayed with them the whole time. The next day he took them back to Figueroa to perform more sex work. J.W. gave all the money she earned to Grant. She earned about \$700 that day. She followed all the rules Grant set for her and notified him each time she was paid. She handed over money to him after she had serviced every two to three customers. Grant gave J.W. condoms. B.S. also worked the area. Grant stayed nearby the whole time that they were working. J.W. later told officers that Grant “was with me 24/7.” Grant threatened J.W. that if she snitched he had “homies” in his gang who would hurt her. Grant also threatened to hurt J.W. the way he hurt B.S. if J.W. did not make her quota. Grant did not hit J.W., but J.W. saw him hit B.S. and A.F.

J.W. worked for Grant a third day. When they were not working, she and B.S. stayed in the motel with Grant. J.W. did not want to work for Grant, but Grant still refused to take her home. He stayed close by and honked the car horn if she was slacking off. Later that day, J.W., Grant, and B.S. were in the car when a police officer pulled them over. Grant told J.W. he had a pistol in the car and told her to get rid of it.

J.W. did not initially disclose to police that she was working for Grant because she was afraid of Grant. Later she told officers about the pistol and wrote out a statement about what happened to her.

J.W. was not a prostitute when she met Grant.

4. Officer Jose Bonilla

Los Angeles County Police Department Officer Jose Bonilla observed Grant watching J.P. and A.F. from his vehicle. The women got into Grant's car. Officer Bonilla conducted a traffic stop on Grant's vehicle. The officer searched and seized Grant's wallet, which contained identification cards for J.P. and A.F. Grant admitted to Officer Bonilla that he was a member of the Hoover gang. Officer Bonilla observed that Grant had several tattoos associated with the Hoover gang.

B. *Defense*

Cynthia Thomas-Houlker was Grant's mother. She met B.S. in 2016 before Grant was arrested. B.S. disclosed that she was a sex worker, but Thomas-Houlker did not know that Grant was involved in B.S.'s sex work. B.S. did not appear to fear Grant. Thomas-Houlker also met B.S.'s son, who Grant treated as his own son. Thomas-Houlker never saw Grant and B.S. argue and did not observe any injuries to B.S. that Grant could have inflicted.

DISCUSSION

A. *Racial Justice Act*

In her closing statement, the prosecutor argued that B.S., A.F., J.P., and J.W. were victims, regardless of whether they would have chosen or did choose to be sex workers. Grant

controlled them, used violence against them, and took all the money that they made—the definition of slavery. The prosecutor expressed concern that people often overlooked and undervalued sex workers as people. She urged the jury to view the victims as people who were deserving of justice like anyone else.

Grant contends that the prosecutor’s comments equating human trafficking to antebellum slavery and sex slavery violated the Racial Justice Act.⁴ The People respond that Grant forfeited

⁴ Grant’s complaints are primarily focused on the prosecutor’s use of “sex slaves,” “sex slavery,” “traditional slavery,” and “sex traffickers,” to refer to the victims of human trafficking, the crime of human trafficking, and human traffickers. He does not explain how sex slavery implicates the Racial Justice Act.

Specific passages that Grant objects to include:

“[P]imps and traffickers . . . look at . . . these young girls as if they are inhuman” and as if they have “the right to abuse them and . . . essentially, enslave them.” “[I]n reality, what the defendant has reduced them to are sex slaves” “If you go to work every day and earn your living, your money, and somebody else comes along and takes every dime that you make, that makes you a slave.” “That is slavery 101.”

“[Sex traffickers] demonize and degrade these young girls and women and children [so] that you will look down on them like they do and make the decision that . . . they don’t deserve the benefit of the laws”

“[T]he reason that human trafficking is illegal is because it’s slavery. It’s sexual slavery. . . . [H]uman trafficking is really on all fours with what we think about in traditional slavery. I’ll use the words ‘traditional slavery,’ the situation where you have some slave working on a plantation. [¶] If one of the slaves runs away or refuses to work, what happens to them? They get a flogging. They get whipped; and in traditional slavery, just like with sex trafficking, when the master or overseer goes to whip

the argument by failing to raise it in the trial court, but that regardless it lacks merit. We agree with the People on both counts.

1. Legal Principles

“[T]he Racial Justice Act provides, in relevant part, ‘The state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin. A violation is established if the defendant proves, by a preponderance of evidence . . . [¶] (1) . . . an attorney in the case . . . exhibited bias or animus towards the defendant because of the defendant’s race, ethnicity, or national origin. [¶] (2) During the defendant’s trial, in court and during the proceedings, . . . an attorney in the case . . . used racially discriminatory language about the defendant’s race, ethnicity, or national origin, or otherwise exhibited bias or animus towards the defendant because of the defendant’s race, ethnicity, or national origin, whether or not purposeful. . . .’ (§ 745, subd. (a)(1)–(2).) The statute defines the phrase ‘ “[r]acially discriminatory language” [¶] as ‘language that, to an objective observer, explicitly or implicitly appeals to racial bias, including,

that disobedient slave, he does it publicly. He wants all the other slaves to know what is going to happen if you do what this slave did, if you try to run away and if you don’t work.”

“Let us not condone sexual slavery.”

“[N]o woman or child deserves to be a sex toy, slave. [¶] That’s what this is, sex slavery [¶] That’s the most important aspect of this entire argument that these are human beings, and slavery, as we all know, in all of its forms is outlawed. That includes sexual slavery.”

but not limited to, racially charged or racially coded language, language that compares the defendant to an animal, or language that references the defendant's physical appearance, culture, ethnicity, or national origin. Evidence that particular words or images are used exclusively or disproportionately in cases where the defendant is of a specific race, ethnicity, or national origin is relevant to determining whether language is discriminatory.' (*Id.*, subd. (h)(4).)" (*People v. Singh* (2024) 103 Cal.App.5th 76, 109–110 (*Singh*).) The defendant bears "the burden of proving a violation of subdivision (a) by a preponderance of the evidence. The defendant does not need to prove intentional discrimination." (§ 745, subd. (c)(2).)

2. Analysis

a. Forfeiture

"A timely objection serves to alert the court and parties to the nature of the claim and objecting counsel's reasons for it, such that opposing counsel can address it and the trial court can make a fully informed ruling on an adequately developed record." (*People v. Wagstaff* (2025) 111 Cal.App.5th 1207, 1220.) "A 'defendant's failure to make a timely and specific objection' on the ground asserted on appeal makes that ground not cognizable.' (*People v. Seijas* (2005) 36 Cal.4th 291, 302.)" (*People v. Jackson* (2016) 1 Cal.5th 269, 328 (*Jackson*).)

During the prosecution's closing argument, defense counsel did not object to any of the comments that Grant now challenges on appeal. Grant does not contest that a Racial Justice Act claim

is subject to forfeiture.⁵ He argues instead that his claim was preserved by counsel’s objection on prosecutorial misconduct grounds at the hearing on the motion for new trial. Grant acknowledges that in *Singh, supra*, 103 Cal.App.5th at pages 112 through 116, and *Corbi, supra*, 106 Cal.App.5th at page 44, the Courts of Appeal held that an objection to a prosecutor’s comments on the basis of prosecutorial misconduct was inadequate to preserve a Racial Justice Act challenge. He argues that *Singh* and *Corbi* are distinguishable because here the trial court “was clearly aware of the nature of [his] objection” because the “racially discriminatory language was so obvious.” Even if Grant’s characterization of the prosecutor’s comments as obviously racially discriminatory were accurate (it is not), his contention misses the point. Forfeiture operates to ensure that the parties have an opportunity to argue the issues, and to ensure that the court has the opportunity to rule and make an adequate record for review. Here, counsel did not raise any potential racial implications when objecting to the comments at the motion for new trial, thereby depriving the parties and the court of the chance to properly address the issue.

In *Corbi*, the court observed that the defendant’s point—that the prosecutor’s comments about white women “‘primed implicit bias of jurors about interracial relationships in general, and about stereotypes of men-of-color seeking out white women

⁵ Every Court of Appeal to address the issue agrees that a Racial Justice Act claim is forfeited on appeal if not first raised in the trial court. (See *People v. Lashon* (2024) 98 Cal.App.5th 804, 810–817; *Singh, supra*, 103 Cal.App.5th at pp. 112–116; *People v. Quintero* (2024) 107 Cal.App.5th 1060, 1077; *People v. Corbi* (2024) 106 Cal.App.5th 25, 41 (*Corbi*); *People v. Wagstaff, supra*, 111 Cal.App.5th at pp. 1219–1221.)

for sex in a predatory manner in particular’ ”—was “well taken,” but that the general appellate rules of preservation and forfeiture of claims apply in the context of the Racial Justice Act. (*Corbi*, *supra*, 106 Cal.App.5th at p. 38.) *Corbi* held that defense counsel’s objection on the basis of prosecutorial misconduct was not timely or specific to the Racial Justice Act and was therefore insufficient to preserve that claim, regardless of its potential merit. (*Id.* at p. 44.) Even if Grant’s claim of error had merit, his case is not distinguishable. Grant forfeited his challenge by failing to raise it below.

We also reject Grant’s argument that his Racial Justice Act claim presents a pure question of law. Resolution of the issue requires analysis of the record and consideration of the specific circumstances of this case—it is a factual inquiry that does not qualify for exception from the general forfeiture rules.

b. Merits

Even if Grant’s Racial Justice Act claim had been preserved, it would fail on the merits. We reject Grant’s characterization of the prosecutor’s comments as racially discriminatory. Grant’s argument that “[t]he references to race were front and center,” is not borne out by the record. The prosecutor did not once reference race explicitly. Nor did she reference defendant’s race implicitly. In the antebellum South “traditional” slavery was perpetrated by white men upon Black people. Grant is Black. His race is not implicated. His argument that the prosecutor’s single reference to an “overseer” was racially charged because “slave narratives and legal research confirm that many slave owners hired black overseers” is

unpersuasive. The evidence at trial did not include slave narratives or other research on antebellum slavery. The prosecutor did not reference Black overseers; she made a comment that applied equally to overseers of any race. Even if *some* overseers were Black, it is commonly understood that Caucasians were the oppressors in American slavery.

Grant does not provide any argument in support of his assertion that referring to human trafficking as sex slavery is racially discriminatory. Sex slavery is universal and not attributable to any single race. The prosecutor's comments did not implicate the Racial Justice Act.

B. *Prosecutorial Misconduct*

1. Legal Principles

“Under California law, a prosecutor commits reversible misconduct if he or she makes use of “deceptive or reprehensible methods” when attempting to persuade either the trial court or the jury, and it is reasonably probable that without such misconduct, an outcome more favorable to the defendant would have resulted. [Citation.] Under the federal Constitution, conduct by a prosecutor that does not result in the denial of the defendant's specific constitutional rights—such as a comment upon the defendant's invocation of the right to remain silent—but is otherwise worthy of condemnation, is not a constitutional violation unless the challenged action “‘so infected the trial with unfairness as to make the resulting conviction a denial of due process.’ [Citation.]” (*People v. Spector* (2011) 194 Cal.App.4th 1335, 1402.) “[W]hen the claim focuses upon comments made by

the prosecutor before the jury, the question is whether there is a reasonable likelihood that the jury construed or applied any of the complained-of remarks in an objectionable fashion.” (*People v. Morales* (2001) 25 Cal.4th 34, 44.)

“ ‘[A] “prosecuting attorney has a wide range in which to state his views as to what the evidence shows and the conclusions to be drawn therefrom[.]” ’ ” (*People v. Rivera* (2019) 7 Cal.5th 306, 336.) “ ‘A prosecutor is allowed to make vigorous arguments and may even use such epithets as are warranted by the evidence, as long as these arguments are not inflammatory and principally aimed at arousing the passion or prejudice of the jury.’ [Citation.]” (*Id.* at p. 337.) “[A]ny allegedly improper statements by the prosecutor must be considered in light of the entire argument. [Citation.] ‘ “In conducting [our] inquiry, we ‘do not lightly infer’ that the jury drew the most damaging rather than the least damaging meaning from the prosecutor’s statements.” ’ [Citation.]” (*People v. Holmes, McClain and Newborn* (2022) 12 Cal.5th 719, 789.)

2. Analysis

a. The Prosecutor Did Not Improperly Appeal to the Jury’s Sympathy and Prejudices

i. Sex slavery and traditional slavery

Grant first contends that, in addition to violating the Racial Justice Act, the prosecutor’s comments regarding sex slavery and traditional slavery constituted prosecutorial misconduct because they improperly appealed to the jury’s sympathies and

prejudices. Grant did not object to these comments during closing argument. Absent a timely objection, the challenge is not cognizable on appeal. (*People v. Jackson, supra*, 1 Cal.5th at p. 328.)

Regardless, the comments do not amount to misconduct. The prosecutor's comparison of human trafficking to sex slavery and traditional slavery were not overly inflammatory. All of the acts are repugnant. The prosecutor made the analogy to demonstrate to the jury why human trafficking is criminal, even if the victims have chosen to be sex workers before the human trafficking occurs and/or after it ceases. As with slavery, the victims were not paid for the work they performed. Grant took all of their earnings. Grant controlled the victims' lives, dictated when they could and could not see their families, and beat some victims savagely to make an example of them so that other victims would obey him. He set the rules by which his victims lived and worked, punished and humiliated them if they broke his rules, and threatened the victims and their families with harm if the victims attempted to leave. The prosecutor did not commit misconduct; her comments were warranted in light of the evidence presented. (*People v. Rivera, supra*, 7 Cal.5th at p. 337 [prosecutor may argue vigorously if the arguments are warranted by the evidence].)

ii. Demonizing the victims

Grant also contends that the prosecutor's remarks that Grant "demonized" the victims and viewed them as "trash" were intended to appeal to the jury's sympathies and biases. The argument is forfeited. (*People v. Jackson, supra*, 1 Cal.5th at

p. 328 [defendant forfeits a claim on appeal by failing to object in the trial court].) Even if Grant's challenge had been preserved for appeal, however, the prosecutor's remarks were responsive to the evidence presented at trial and defense counsel's arguments.

The evidence demonstrated that Grant felt justified in brutally beating and abusing the victims as punishment for perceived or actual disobedience. He looked down on them because he was able to subjugate them. He made A.F. and J.P. stand in the corner for long periods of time, depriving them of sleep and forbidding them to use the bathroom. He threatened J.P. that if she fell asleep she would never wake up again. He severely beat both B.S. and J.P., causing B.S. to spend four days in the hospital and wear a catheter for weeks.

In cross examination, defense counsel questioned the victims about their participation in sex work both before and after Grant committed the charged offenses. The prosecutor correctly anticipated the defense's argument that the evidence that the victims were sex workers before Grant exploited them was proof that they consented to perform sex work and forfeit their earnings to Grant. The prosecutor argued: "So all these little dirty tricks that traffickers try to use to try to demonize the victim, to try to blame the victim, it's not a defense. You are not going to see anywhere in the instructions that the court read to you that you are going to have in the jury room that says, if you were previously exploited in the commercial sex industry as a child, your current pimp gets a pass."

The prosecutor's comments were relevant and responsive to the evidence of Grant's treatment of the victims and defense counsel's argument that the victims consented to violence, abuse, and sex work without compensation. A.F. had to convince Grant

to take B.S. for medical treatment rather than allowing her to convulse in front of him. Grant beat B.S. to set an example of the consequences the other women would face for disobedience. It was not an exaggeration to state that Grant viewed the victims as trash—he treated B.S. as disposable.

iii. *Characterizing the victims as daughters, sisters, and mothers*

Finally, Grant objects that the prosecutor's reference to the victims as "someone else's daughter, someone's sister and someone's mother" was an improper appeal to the jury's sympathy. Grant's complaint requires context that is not included in the opening brief. The following discussion took place during the prosecutor's closing argument:

"The Court [to the prosecutor]: It appears from the slide that you are asking the jury to make an example of the defendant in the future. [¶] Is that what that slide is?

"[The Prosecutor]: No, Your Honor, I'm talking about the fact that from the evidence we know that these sex workers were *someone else's daughter, someone's sister and someone's mother*.

"The Court: You are talking about the current [victims]?

"[The Prosecutor]: Yes. That's the evidence of these sex workers.

"The Court: Okay. All right. Go ahead.

"[Defense Counsel]: I will object. Improper play on the jury's sympathy.

"The Court: Overruled. Go ahead.

"[The Prosecutor to the jury]: The defense wanted you to know what they perceived as a dirty little secret of these sex

workers, that J.P. was out on the street hoeing, not just to feed her own self and her child, but to help her sister with her kids. The defense wanted you to know that. The law does not condone that.

“B.S. told us that she was a mother and she trusted the defendant and perceived him as her child’s father. She said he potty-trained her little boy.

“The defense wanted you to know that J.P. was so heavy in the game, so to speak, that she had lost custody of her son; that she was a mother; and even though she lost custody of her son, because she was presumably—because she was engaged in commercial sex work—I don’t believe we have evidence of why that was—but certainly I think it was the defense’s contention that she lost custody of her son because she was a sex worker.

“Let’s go with that. Let’s assume that is true. She is a mother trying to earn a living to feed herself and to pay child support for her child. That doesn’t—that does not give anyone the right—that does not give this defendant the right to sexually enslave these young girls” (*Italics added.*)

Although the record does not indicate that the court’s discussion with the attorneys was outside the presence of the jury, it is clear that the prosecutor’s statement that “from the evidence we know that these sex workers were someone else’s daughter, someone’s sister and someone’s mother” was an explanation directed to the court and not an argument addressed to the jury.

Further, the comments that followed did not improperly appeal to the jurors’ sympathies and biases. The prosecutor’s comments referred to facts in evidence. In cross-examination, defense counsel elicited testimony that J.P. was a sex worker for

a year before she met Grant, and prostituted herself to provide for her sister, her sister's kids and her own child. J.P. lost custody of her son and had not regained custody of him at the time of trial. Defense counsel elicited that B.S. was 16 years old when she started prostituting for her first pimp but stopped prostituting for a while when she was 18 years old, after she was released from jail and was pregnant with her son. Counsel also elicited that B.S. continued to perform sex work after she left Grant. Defense counsel's questions suggested that the women had chosen sex work at the expense of family. Counsel also repeatedly asked J.W. if she had been a prostitute before she met Grant, which she denied. He implied that J.W. would not have had money to buy food at McDonald's if she was not performing sex work. J.W. explained that she was "only a kid," and that her parents had given her money. The prosecutor responded to this cross-examination of the victims by noting that their status as mothers (A.F., B.S., and J.P.), sisters (J.P.), and daughters (J.W.) was not inconsistent with their status as the victims of sex trafficking.

b. The Prosecutor Did Not Improperly Inject Her Personal Opinion into Her Argument or Vouch for the Credibility of Witnesses

Grant contends that the prosecutor injected her personal opinion into the case and vouched for her witnesses' credibility by using language to align herself with the jurors. Grant cites to the following italicized examples within portions of the prosecutor's argument. Grant's contention is forfeited (*People v. Jackson*,

supra, 1 Cal.5th at p. 328 [defendant forfeits a claim on appeal by failing to object in the trial court]), and also fails on the merits.

In her closing statement, the prosecutor said:

“[Human trafficking is] a crime. Don’t condone it because the law does not condone it. We are here to follow the law. *Regardless of how we personally feel*, what our personal opinion is about commercial sex work or commercial *sex workers or prostitutes or hoes*, whatever you want to call them, regardless of your personal opinion of what they do or what they are, that is what you are here to do.

“*You are here to follow the law.* So those who provide criminal instruments that are designed to further these exploitations of young women and kids are guilty of the crime of human trafficking. When you actively engage in sexual exploitation by instructing young women and children on how, where, to whom to sell their bodies, you are a human trafficker. *Our job here is to follow the law.*”

“When you threaten physical assault on women and children to deprive them of sleep, coerce them to work and rob them—that word ‘rob’ is appropriate under the circumstances because the money that the defendant took from each of these sex workers is under the umbrella of a threat. These girls were working under duress. He did it by instilling fear in them; and of course, they are going to hand the money over to him because they know, if they don’t, they will get chopped.

“When you do that, you are a sex trafficker. You are a human trafficker. The law does not condone it. *So we can’t condone it* because we have to follow the law here. *So let’s follow the law. Do justice in this case by following the law, hold accountable exploiters of vulnerable women and children*

accountable for their crimes. Hold them accountable.” (Italics added.)

In her rebuttal, the prosecutor argued that Grant’s actions were a sustained and substantial restriction on the victims’ liberty. The prosecutor emphasized that Grant was guilty of human trafficking because he effectuated a substantial and sustained restriction of B.S.’s liberty not just through a single, horrible “chopping” that severely injured her, but through the prolonged threat of violence over the course of months. She concluded:

“So we are here to follow the law, and obviously the defense does not want you to follow the law.”

Specifically, Grant complains of the prosecutor’s use of the words “we,” “our,” and “let’s” to align herself with the jury. In support of his argument, Grant cites to several cases where the prosecutor impermissibly alluded to evidence that had not been admitted at trial or indicated that they or some other court official believed the defendant was guilty based on their own expertise or experience. (*United States v. Kerr* (9th Cir. 1992) 981 F.2d 1050, 1052–1053 [prosecutor committed misconduct by indicating that the court would not have accepted witnesses’ plea agreements if the court did not believe the witnesses were credible]; *People v. Nolan* (1932) 126 Cal.App. 623, 640–641 [prosecutor’s statements that “ ‘the defendant has the only appeal in a case of this kind. The People have none. He has been tried here by a jury practically of his own choosing’ ” constituted misconduct]; *Berger v. United States* (1935) 295 U.S. 78, 84 [prosecutor improperly misstated facts, referenced testimony that had not been made, and suggested that statements were made to him outside of court without proof]; *In*

re Brian J. (2007) 150 Cal.App.4th 97, 123 [prosecutor improperly implied the existence of facts not in evidence and interjected his personal views into the argument]; *People v. Hill* (1998) 17 Cal.4th 800, 828 [prosecutor improperly referred to facts not in evidence].)

The cases are not analogous to the instant case. Here, the prosecutor cited to facts in the record and argued that Grant's conduct met the necessary elements of human trafficking. The prosecutor did not suggest that she had knowledge of evidence outside of the record or that she knew Grant was guilty from her own professional experience.

Finally, as the people highlight in the respondent's brief, defense counsel also used "we" and "our" in argument: "even if we think he is a reprehensible human being, if the People have not proven the crime beyond a reasonable doubt, you vote not guilty and leave the moral innocence to whatever higher power you believe in"; "There is room in the law for people to be just normally violent. We don't have to approve of it, but the violence has to equal the substantial and sustained restriction. We know it did not restrain or restrict"; "It might be something we turn our nose at, but the fact remains that the game was the thing controlling these women, not Mr. Grant"; "Sex slaves don't set their own prices if that is the way we look at this"; and "in this country, free speech is something we viciously protect".) The jurors would not have understood the prosecutor's statements or the defense's as anything more than advocacy.

**c. The Prosecutor Did Not Urge the Jury to Convict
Grant to Cure a Social Problem**

Grant challenges the prosecutor's remarks that human traffickers view their victims in a certain manner as a call to the jury to cure a social problem. Grant forfeited this challenge by failing to object in the trial court. (*People v. Jackson, supra*, 1 Cal.5th at p. 328.) His contention also fails on the merits.

Grant cites to *United States v. Weatherspoon* (9th Cir. 2005) 410 F.3d 1142, 1149 (*Weatherspoon*) for the proposition that “[a] prosecutor may not urge jurors to convict a criminal defendant in order to protect community values, preserve civil order, or deter future lawbreaking.” Grant omits the court’s explanation for why this is so: “The evil lurking in such prosecutorial appeals is that the defendant will be convicted for reasons wholly irrelevant to his own guilt or innocence.” (*Ibid.*)

In *Weatherspoon*, the prosecutor argued: “Convicting Mr. Weatherspoon is gonna make you comfortable knowing there’s not convicted felons on the street with loaded handguns, that there’s not convicted felons carrying around semiautomatic [weapons]. . . .” (*Weatherspoon, supra*, 410 F.3d at p. 1149.) Defense counsel objected and the court admonished the prosecutor to “confine his arguments to ‘guilt or not guilt.’” (*Ibid.*) Shortly thereafter, the prosecutor told the jury “‘the law of being a felon in possession of a firearm, that protects a lot of people out there too.’” (*Ibid.*) Defense counsel objected and the court reiterated its admonition. (*Ibid.*) The prosecutor then argued: “‘finding this man guilty is gonna protect other individuals in this community.’” (*Ibid.*) Defense counsel again

objected, but this time the court overruled the objection, stating, “ ‘When there is a serious objection, I will rule in your favor on it. At the moment, please let the Government complete its argument.’ ” (*Ibid.*)

The Ninth Circuit concluded that the prosecutor’s statements constituted misconduct, particularly in light of the fact that they were repeated multiple times following admonitions, the trial court ultimately told the jury that these were not serious objections, and “Weatherspoon’s guilt at trial depended entirely on proof that he was in possession of a gun at the time that the car was pulled over. Those prosecutorial urgings—especially the later ones encouraging a conviction to protect other individuals in the community—spoke not to that question, but rather to the potential social ramifications of the jury’s reaching a guilty verdict.” (*Weatherspoon, supra*, 410 F.3d at p. 1149.) The court also noted that the prosecutor’s comments focused on the defendant’s status as a convicted felon. (*Ibid.*, fn. 5.)

Grant’s specific challenges are italicized in the excerpts that follow:

“We are not here to make judgments about someone’s chosen profession. That does not give him the right to take her money that she earned and to violate her personal liberty. It’s not a defense. More victim blaming. The victim was a sex worker before she was exploited by [Grant]. This is going back to the defense wanting you to know the history of the sexual exploitation of these kids, and I say ‘kids’ because they were kids.

“You got an 18- and 19-year-old, who, on questioning of the defense, he wants to know all their dirty little secrets; that she was—J.W. was trafficked as a 14-year-old. That’s not a defense.

That means some other pimp trafficker put her out on the blade just like [Grant] did. That does not get him off the hook. That does not absolve him of responsibilities. The fact that this child was trafficked into the sex trade before [Grant] got to her, that does not give him a pass.

“Same with B.S. The defense wanted you to know that at the age of 16, B.S. had a turnout pimp, that she had another individual who was trafficking her as a child. That does not give the defendant any right to take her money and violate her liberty. It’s not a defense.

“So all these little dirty tricks that traffickers try to use to try to demonize the victim, to try to blame the victim, it’s not a defense. You are not going to see anywhere in the instructions that the court read to you that you are going to have in the jury room that says, if you were previously exploited in the commercial sex industry as a child, your current pimp gets a pass.” (Italics added.)

* * *

“J.P. told you she had a pimp before [Grant], and she had a pimp after [Grant]. B.S. told you that, even after she got away from [Grant], after [Grant] put her out of commission. She recovered from her near-death experience. She recovered from the vicious injuries that [Grant] inflicted upon her. Yeah, she turned some tricks. She engaged in survival prostitution to pay her bills and keep a roof over her head. That does not give defendant the right to—that does not absolve him of what he did to her.

“That does not give him the right or justification to take her money that she earned by turning tricks and it does not give him the right to violate her personal liberty. See, *these traffickers*,

they want to demonize the victim. They want you to look at the victim as trash because they look at the victim as trash; but the court has given you the law. A sex worker paid his pockets, a violation of personal liberty. That's human trafficking." (Italics added.)

* * *

"So let's not condone the commercial sexual exploitation of children. I'm talking about Essence, and *let us not condone sexual slavery.*" (Italics added.)

Defense counsel did not object until the prosecutor argued to hold "them" accountable:

"[The Prosecutor]: *So we can't condone [human trafficking] because we have to follow the law. So let's follow the law. Do justice in this case by following the law, hold accountable exploiters of vulnerable women and children accountable for their crimes. Hold them accountable.*

"[Defense Counsel]: Objection. Improper argument.

"The Court: It's not them as a whole. We are talking about the defendant.

"[The Prosecutor]: Hold him accountable for his crimes against these vulnerable women. . . . [¶] . . . "You saw J.W. You saw J.P. They had all the risk factors of vulnerability that the defendant pounced on and used to his advantage to traffic them in the game. So let's do justice here. Let's follow the law. *Recognize that no one is a throwaway child or adult. I use 'throwaway' because sex traffickers view their victims as something other than a human being. [¶] . . . No woman or child deserves to be a sex toy, slave.*" (Italics added.)

The prosecutor concluded:

“That’s the most important aspect of this entire argument that these are human beings, and slavery, as we all know, in all of its forms is outlawed. That includes sexual slavery. Follow the law and do justice here. Do justice for these victims in this case, who had the misfortune of being—having their money taken by this defendant and having their personal liberty violated by being threatened, kicked, punched, stomped and almost killed with respect to B.S.

“Let’s do justice for these victims, do what the law demands of you; and you all promised to do that. You all promised to follow the law even if you personally disagree with it; and if you follow the law, this is where the law takes you. Do what the law demands of you. Find the defendant guilty. Because on this evidence, when you apply the law to these facts, he is guilty.”

The prosecutor’s comments in this case are readily distinguishable from those in *Weatherspoon*. Here, the prosecutor argued that the jury should not believe that the victims were less-than and undeserving of justice simply because that is how a human trafficker like Grant might view them. The prosecutor focused on Grant’s guilt based on the evidence in the record, and on obtaining justice for Grant’s victims, regardless of whether they were in the sex work industry before or after Grant victimized them. When viewed in context, it is clear that the prosecutor was not arguing for the jury to convict Grant as an example regardless of his personal culpability. She was arguing for Grant to be held accountable, regardless of the victims’ chosen profession or previous exploitation, and despite any societal bias that the jurors might have. The prosecutor did not ask the jury to convict Grant to protect citizens in the community. She urged

them to convict Grant for the crimes he committed against the named victims in this case.

Additionally, unlike *Weatherspoon*, here defense counsel objected only once, and the trial court issued a single admonition. The court did not diminish the gravity of that admonition by indicating that it was not serious. Although Grant argues that the prosecutor continued to argue in an objectionable manner repeatedly following the court's admonition, all but one of the examples he cites actually occurred before he objected and the court admonished the prosecutor. That single comment did not urge the jury to hold "them" accountable.

Viewed in context, we cannot say that there is a reasonable likelihood that the jury construed or applied any of the complained-of remarks as Grant suggests, and there is not a reasonable probability that, in the absence of the prosecutor's remarks, Grant would have received a more favorable outcome.

d. The Prosecutor Did Not Cast Aspersions on Defense Counsel

Finally, Grant complains that, in rebuttal, the prosecutor cast aspersions on defense counsel by stating that counsel's argument misconstrued the law and the evidence, and by suggesting that the defense wanted to strip the victims of their dignity.⁶ Grant forfeited his challenge by failing to object during

⁶ Specifically, Grant objects to the italicized language in the following excerpts of the prosecutor's argument:

"So we are here to follow the law, and obviously the defense does not want you to follow the law. Because if you follow the law, it can only lead you in one direction . . ." (Italics added.)

closing statements. (*People v. Jackson, supra*, 1 Cal.5th at p. 328.) Regardless, the argument lacks merit.

In his closing, defense counsel suggested that the victims were engaging in sex work and giving all their earnings to Grant because they wanted to, as evidenced by the fact that they engaged in sex work before and after the charged crimes occurred.⁷ The defense’s argument ignored that when the victims performed sex work before or after the charged offenses occurred, they did so either because another pimp trafficked them or because they worked of their own free will in order to pay their rent and support their children. There was no evidence that the victims ever chose to relinquish all of their earnings and suffer

“The defense wants to strip away the dignity of these girls, these children, and suggest to all of you that . . . they want to be sex slaves.” (Italics added.)

“The defense then, again misconstruing the evidence.” (Italics added.)

“This is the recurring theme of the defense argument, a misconstruction of the evidence and a misconstruction of the law.” (Italics added.)

“So every point that the defense argued to you was a misconstruction of the evidence and a misconstruction of the law.” (Italics added.)

⁷ Defense counsel argued: “That is why it’s relevant whether or not people have performed sex work after being with Mr. Grant. Because the idea is they were under duress and performing it for Mr. Grant, something that they would not otherwise do. [¶] But the evidence shows that time and time and time again they all did it whether or not Mr. Grant was involved in their life or not.” “[Essence] was working as a sex worker before Mr. Grant. He did not cause her to do sex work. You can set this whole thing with Essence aside.”

regular beatings and humiliation. The defense's treatment of trafficking and consensual sex work as equivalent ignored the legal distinction between prostitution and human trafficking. The victims may have chosen prostitution freely in some instances, but they did not choose to be trafficked, which includes as elements that the defendant (1) deprived the victim of personal liberty or violated the victim's personal liberty, and (2) intended to obtain forced labor or services. (*People v. Halim* (2017) 14 Cal.App.5th 632, 643.)

Defense counsel also argued that Grant's violence was divorced from the victims' sex work and not a sustained and substantial restriction on the victims' liberty. This argument ignored that the victims did not only suffer incidents of severe violence that were of short duration. They lived under the constant threat of humiliation and violence. Legally, "[d]eprivation or violation of the personal liberty of another" includes substantial and sustained restriction of another's liberty accomplished through force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out." (§ 236.1, subd. (h)(3).)

Finally, the defense also construed the evidence in a manner that arguably stretched credulity. For example, defense counsel painted B.S.'s testimony of Grant's brutal beating of her as an exaggeration of the violent nature of their romantic relationship for the purposes of revenge.⁸ He also argued that

⁸ Defense counsel argued: "[Bianca] is unleashing her vengeance upon Mr. Grant by overplaying the role that his

J.W. had a key to the Kings Motel room and that evidence of the key demonstrated she was free to leave but instead chose to engage in sex work for Grant. The evidence was that J.W. remembered the motel room number and had personal items in the room, not that she had a key.

In her rebuttal, the prosecutor argued that neither the circumstance that the victims had been previously exploited nor the evidence that they freely engaged in sex work could serve as a legitimate defense to human trafficking. Rather, the defense was using the victims' history as a way to paint them as unworthy of justice, which misconstrued both the law and the facts.

The prosecutor also emphasized that it was not only Grant's actual outbursts of severe violence that restricted the victims' liberty, but the constant over-arching threat of violence that Grant used to control them. The prosecutor argued that defense counsel's attempts to ignore the import of Grant's threats and to divorce the violence from the victims' continued engagement in sex work under Grant's control misconstrued both the law—which identifies the use of threats as one means of

violence had in the sex work that she participated in willingly with him and after him. [¶] “. . . [T]he evidence of Mr. Grant punching Bianca in the vagina is very troubling. The pictures of her in the bathroom with blood leaking from her private areas was unsettling, but that was a discrete domestic violence event that happened. It was not connected to the sex work. He had a violent temper about money, but he was not punishing her for not doing sex work. He was not hitting her to go out and do more sex work. [¶] He was missing his money, and he punched her. That's a separate act of violence. . . . [Y]ou know from the testimony that they always had a violent relationship. It was already his practice and pattern of getting violent with her before sex work happened. That's it.”

restricting personal liberty—and the facts, which showed that Grant’s violence was directly linked to the victims’ continued participation in unpaid sex work.

The prosecutor countered defense counsel’s factual arguments, reciting the testimony given at trial. She argued that Grant’s beating of B.S. was not simply a regular feature of their romantic relationship, and that J.W. did not have keys to the motel room and was not permitted to leave when she wished.

The prosecutor’s comments, although fervent, were an argument to the jury not to be persuaded by defense counsel’s interpretation of the law and facts and not to accept the suggestion that the victims chose to give all their earnings to Grant and to be subjected to violence. It is not reasonably probable that the jury would have viewed the remarks in an objectionable way or that the outcome of this case would have been more favorable to Grant in the absence of the prosecutor’s comments.

C. *Admission of Gang Evidence*

1. Legal Principles

“Only relevant evidence is admissible” (*People v. Harris* (2005) 37 Cal.4th 310, 337; Evid. Code, §§ 210, 350.) Evidence is relevant if it “tends ‘logically, naturally, and by reasonable inference’ to establish material facts such as identity, intent, or motive.” [Citation.]” (*People v. Harris, supra*, at p. 337.) Trial courts have broad discretion in determining whether evidence is relevant. (*Ibid.*) We review a trial court’s ruling on the admissibility of evidence for an abuse of that

discretion. (*People v. Waidla* (2000) 22 Cal.4th 690, 717.) The trial court’s decision “will not be disturbed except on a showing the trial court exercised its discretion in an arbitrary, capricious, or patently absurd manner that resulted in a manifest miscarriage of justice.” (*People v. Rodriguez* (1999) 20 Cal.4th 1, 9–10.)

Evidence Code section 352 is intended to prevent undue prejudice, that is “ ‘ “evidence which uniquely tends to evoke an emotional bias against the defendant as an individual and which has very little effect on the issues,” ’ not the prejudice ‘that naturally flows from relevant, highly probative evidence.’ [Citations.]” (*People v. Padilla* (1995) 11 Cal.4th 891, 925, overruled on other grounds by *People v. Hill* (1998) 17 Cal.4th 800.) Evidence may be excluded under Evidence Code section 352 “if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury.”

The courts recognize that gang-related evidence may have a “ ‘highly inflammatory’ ” impact. (*People v. Samaniego* (2009) 172 Cal.App.4th 1148, 1167.) However, “evidence of gang membership is often relevant to, and admissible regarding, the charged offense. Evidence of the defendant’s gang affiliation . . . can help prove identity, motive, modus operandi, specific intent, *means of applying force or fear*, or other issues pertinent to guilt of the charged crime.” (*People v. Hernandez* (2004) 33 Cal.4th 1040, 1049, italics added.)

2. Proceedings

At trial, the prosecutor asked J.W. why she gave Grant all her money. J.W. testified that she was afraid she “was going to get beat up or something.” The prosecutor asked who J.W. thought would beat her up, and J.W. responded she thought Grant would. The prosecutor then asked if J.W. remembered testifying at the preliminary hearing that Grant had referenced his homeboys in a gang. J.W. confirmed that she did remember her statement. The prosecutor then asked if J.W. remembered that she could not recall which gang Grant belonged to at the preliminary hearing. Defense counsel objected to this single question on relevance grounds. The court overruled the objection. J.W. said she did remember and that Grant was a member of the Hoovers.

The prosecutor asked B.S. if she considered leaving Grant. B.S. testified that she thought about it but did not do it because Grant threatened to harm her, her parents, and “anybody in my family.” “Because [Grant] is from Hoover, and my family is from [another gang]. So he told me that he would have his friends and family go to my people’s house if I was to leave him.” She believed that Grant meant the Hoovers would kill or harm her family. B.S. testified that her family belonged to a rival gang.

The prosecutor asked J.P. why she was hesitant to speak to police officers. She testified that she was afraid of what Grant would do to her, and that “he was going to have his gang after me.” J.P. testified that Grant did not specifically threaten her with his gang, but he made sure she knew that he was a Hoover, and she understood what that meant.

Officer Jose Bonilla testified that Grant admitted he was a member of the Hoovers, and that Grant had tattoos that were consistent with Hoover membership on visible parts of his body including his arm and neck.

The prosecutor mentioned the gang evidence in oral argument. She emphasized to the jury that Grant made a point of reminding the victims what would happen if they disobeyed him. She argued:

“[The victims all knew about] the use of his gang just like everybody knew what he did to B.S. Even the girls that was not there when it happened, they knew J.W., who was only there for three days, knew what happened to B.S. [¶] Everybody knew that he was a gang member. . . . Everybody knew because he made it clear. He wanted them to know. He wanted the girls to know what happened to [B.S.] because the implication is clearly this is what is going to happen to you if you don’t do what you are supposed to do. Everybody he knew was a gangster and he had backup if these girls did not do what they were supposed to do. [¶] You have a 37-year-old man terrorizing a bunch of teenage girls. ‘H-G’—‘H-C-G’ on one of his triceps. You heard from Sergeant Bonilla. Hoover Crip Gangsters, 11Deuce, 112, on his arm—strike that—tricep. That is the set he belonged to; and J.P. said, ‘I don’t know what specific set he belonged to, but I dang sure know he is a Hoover.’ ”

Later in her closing statement, the prosecutor responded to the defense’s suggestion that J.W. did not call her mother or the police because J.W. wanted to work for Grant. The prosecutor argued: “You don’t blame the victim. This is an 18-year-old girl. He is old enough to be her dad and threatening her, if that was not enough, with his physical display of a severely injured sex

worker; and he is telling this girl about how he is a Hoover Gangster Crip or a Hoover Crip Gangster. He wants her to know he is a violent guy and that, if she does not do what he tells her to do, she will get the same thing that B.S. did.”

3. Analysis

Grant contends that the gang evidence admitted at trial was not logically relevant to a material issue, was more prejudicial than probative, and was cumulative. He further challenges the prosecutor’s use of the gang evidence in her closing argument. Defense counsel did not move to have gang evidence excluded prior to trial, and he made a single objection at trial in response to the prosecutor asking whether J.W. recalled that she could not remember the name of Grant’s gang when she testified at the preliminary hearing. Counsel did not object to any other gang evidence at the time that it was admitted or object to the prosecutor’s arguments relating to the gang evidence. This single timely objection to eliciting the name of Grant’s gang is not sufficient to preserve the multiple challenges Grant now attempts to raise on appeal—which do not include a challenge to the prosecutor’s question about which gang Grant belonged to. Grant has therefore forfeited his challenges for failure to object in the trial court. (*People v. Jackson, supra*, 1 Cal.5th at p. 328.) Regardless, his contention lacks merit.

There were four counts of human trafficking charged in this case. The prosecution was required to prove two elements to sustain the human trafficking charges: (1) Grant either deprived the victims of personal liberty or violated the victims’ personal liberty; and (2) Grant must have done so with the intent to pimp

or pander. (§ 236.1 “[a] person who deprives or violates the personal liberty of another with the intent to effect or maintain a violation of [s]ection . . . 266h [or] 266i . . . is guilty of human trafficking”).) “ ‘Deprivation or violation of the personal liberty of another’ includes substantial and sustained restriction of another’s liberty accomplished through force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.’ (§ 236.1, subd. (h)(3).)” (*People v. Guyton* (2018) 20 Cal.App.5th 499, 506.)

Grant admitted to pimping the victims. The only disputed issue relating to the human trafficking charges was whether Grant restricted his victims’ personal liberty. The evidence that Grant threatened several of the women and their families with gang violence is highly relevant to proving that element of the crimes. The threat of gang violence was one means by which Grant restricted the victims’ liberty through fear, duress, menace, and threat of unlawful injury, and forced them to perform sex work for him. The evidence was not unduly prejudicial. Rather, it was the type of permissible “prejudice ‘that naturally flows from relevant, highly probative evidence.’ [Citations.]” (*People v. Padilla, supra*, 11 Cal.4th at p. 925.)

We reject Grant’s assertion that because he “had already threatened great bodily harm to the [victims] and/or their families, the prospect that [his] gang might also do so was at most of marginal relevance.” To the contrary, gang violence was an entirely separate threat that posed a real deterrent for the victims. There were numerous gang members who could harm

them, and the Hoovers were rivals to the gang that B.S.'s family members belonged to—i.e., the Hoovers likely already knew who B.S. and their families were and already had incentive to harm them. Grant was charged with a separate count against each victim and the prosecution had to prove the counts individually beyond a reasonable doubt. The prosecutor only directed a few questions to each victim. Evidence that different victims were threatened with gang violence was not cumulative.

Moreover, the prosecutor elicited minimal testimony relating to Grant's gang, and did not go beyond what was necessary to establish that Grant made gang threats against several of the victims, and that he was capable of carrying out those threats. The gang expert testified briefly regarding Grant's gang membership and his visible tattoos. The expert's testimony was necessary to establish that the victims believed it was likely that Grant would carry out his threats—because he was in fact a member of the Hoover gang as he claimed to be.

The threats were also relevant to the criminal threats charges. "In order to prove a violation of section 422, the prosecution must establish all of the following: (1) that the defendant 'willfully threaten[ed] to commit a crime which will result in death or great bodily injury to another person,' (2) that the defendant made the threat 'with the specific intent that the statement . . . is to be taken as a threat, even if there is no intent of actually carrying it out,' (3) that the threat—which may be 'made verbally, in writing, or by means of an electronic communication device'—was 'on its face and under the circumstances in which it [was] made, . . . so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of

execution of the threat,’ (4) that the threat actually caused the person threatened ‘to be in sustained fear for his or her own safety or for his or her immediate family’s safety,’ and (5) that the threatened person’s fear was ‘reasonabl[e]’ under the circumstances.” (*People v. Toledo* (2001) 26 Cal.4th 221, 227–228.)

J.W. and B.S.’s testimony demonstrated that Grant threatened them with serious harm or death from members of his gang, that Grant intended the threats, that the threats were specific, and that J.W. and B.S. were frightened and chose not to leave Grant in part because they feared what the gang would do to them. Officer Bonilla’s testimony confirmed that the victims’ fear was reasonable—Grant was a member of the Hoovers and had Hoover tattoos in visible places on his body.

Notably, the jury found Grant not guilty of all criminal threats charges despite the gang evidence that was admitted to prove those charges. The jury’s acquittal of Grant on those counts demonstrates that he was not, in fact, prejudiced by the gang evidence. The trial court did not abuse its discretion by admitting the gang evidence, which was highly relevant to the issues, and not unduly prejudicial or cumulative.

D. *Cumulative Error*

Finally, Grant contends that the cumulative errors at trial rose to the level of reversible error and deprived him of due process. As we have concluded that the prosecutor did not act improperly and the trial court did not err, the contention necessarily fails. (See *People v. Hines* (1997) 15 Cal.4th 997, 1061.)

DISPOSITION

We affirm the trial court's judgment.
NOT TO BE PUBLISHED.

MOOR, J.

WE CONCUR:

HOFFSTADT, P. J.

KIM (D.), J.