

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 15 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SHEILA MARIE RITZE,

Defendant - Appellant.

No. 23-748

D.C. No.

8:20-cr-00002-DOC-2

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Argued and Submitted June 24, 2026
Pasadena, California

Before: Michelle T. Friedland, Danielle J. Forrest, and Roopali H. Desai, Circuit Judges.

After a jury convicted Defendant Sheila Marie Ritze of second-degree murder for her role in the death of Tri Minh “James” Dao, the district court sentenced her to a prison term of 262 months. Ritze appealed, arguing that the district court committed a litany of trial and sentencing errors. We have

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C § 3742 and, for the reasons explained below, we uphold her conviction and sentence.

1. For the reasons explained in our concurrently filed opinion, *United States v. Le*, No. 23-1814, the federal government properly exercised jurisdiction over Ritze’s prosecution.

2. Ritze argues that her post-arrest statements should have been suppressed because she lacked the capacity at the first interrogation to knowingly and intelligently waive her rights under *Miranda v. Arizona*, 384 U.S. 436 (1966), because the second interrogation required fresh warnings, and because her statements made during both interrogations were rendered involuntary by coercive tactics and Ritze’s intoxication. We review the district court’s determination that the waiver was knowing and intelligent for clear error and its determination that the waiver was voluntary de novo. *United States v. Amano*, 229 F.3d 801, 803 (9th Cir. 2000).

The district court did not clearly err in finding that Ritze knowingly and intelligently waived her *Miranda* rights prior to the first interrogation. After reviewing the record, including the recordings of the interrogations, the district court found that Ritze’s “cognitive abilities [we]re very good”—a finding corroborated by the defense expert, who testified that he saw no signs of alcohol impairment or withdrawal, notwithstanding Ritze’s elevated blood alcohol content.

The recordings indeed show that Ritze engaged in extended small talk with the agents, strategically volunteered and withheld information, and invoked her own connections with law enforcement.

Nor did the roughly three-to-five-hour gap between the first warning and the second interrogation require re-advisement. *United States v. Rodriguez-Preciado*, 399 F.3d 1118, 1128 (9th Cir. 2005) (“The Supreme Court has eschewed per se rules mandating that a suspect be re-advised of his rights in certain fixed situations in favor of a more flexible approach focusing on the totality of the circumstances.”). The interval was brief, Ritze was in continuous custody throughout, the subject matter of the discussions did not meaningfully change, and Special Agent (“SA”) Gicking reminded Ritze at the outset of the interrogation that her *Miranda* rights were “still in play, nothing’s changed” to which Ritze responded, “[o]kay.” Although SA Coughlin’s statement at the close of the first interview—that Ritze would be assigned an attorney and “likely won’t hear from [agents] again”—cuts in Ritze’s favor, on the totality of the circumstances the district court did not clearly err in concluding that the earlier warnings retained their efficacy during the second interrogation.

Finally, although SA Cho’s tactics during the second interrogation were aggressive, the tactics did not overbear Ritze’s will or reach the level of coercion we have previously found to render statements involuntary. *See United States v.*

Tingle, 658 F.2d 1332, 1335–36 (9th Cir. 1981). Ritze’s ease of discussion with the agents, as well as her continued strategic and self-serving responses, indicate that her will was not overborne. *See Balbuena v. Sullivan*, 980 F.3d 619, 633–34 (9th Cir. 2020).

3. Ritze argues that her recorded workplace statements were inadmissible propensity evidence under Federal Rule of Evidence 404(b) and unduly prejudicial under Rule 403. We review evidentiary rulings for abuse of discretion and legal interpretations of the evidentiary rules de novo. *United States v. Waters*, 627 F.3d 345, 351–52 (9th Cir. 2010).

The district court did not abuse its discretion by admitting these statements because they fall within Federal Rule of Evidence 404(b)(2). The statements were not offered as propensity evidence, but rather evidence of Ritze’s “intent,” “knowledge,” or “lack of accident,” which Rule 404(b)(2) expressly permits. Fed. R. Evid. 404(b)(2).

The district court also acted within its considerable discretion under Rule 403 in admitting the workplace statements. *United States v. Hankey*, 203 F.3d 1160, 1167 (9th Cir. 2000). The statements bore directly on the central disputed issue of Ritze’s knowledge of and alignment with Le’s plan, and the court permissibly distinguished them from other, more generic threatening statements that it excluded as insufficiently probative. *See Ortiz-Sandoval v. Gomez*, 81 F.3d

891, 898 (9th Cir. 1996).

4. Ritze contends that permitting Dao's mother to remain in the courtroom during the jury's review of two exhibits was structural error because the replay was part of jury deliberations. We disagree. We have treated in-court replay of recorded evidence—with the judge, counsel, and defendant present—not as a private deliberative act by the jury but as a stage of trial at which the defendant's presence is preferable. *United States v. Kupau*, 781 F.2d 740, 743 (9th Cir. 1986) (recognizing that “the defendant had a right to be present when the tape was being played”); *United States v. Chadwell*, 798 F.3d 910, 914–15 (9th Cir. 2015) (stating that the decision whether to allow jurors to review evidence privately is left to the discretion of the trial judge). The jurors made no statements during the replay, and the court expressly instructed them to “resume” deliberations afterward, indicating that the replay was a break in the private deliberative process rather than a continuation of it. Given the open nature of the proceeding, the victim's mother had a right to attend. 18 U.S.C. § 3771(a)(2)–(3).

5. Viewing the evidence in the light most favorable to the prosecution, a rational jury could find that Ritze possessed the requisite mens rea and that her conduct proximately caused Dao's death. *United States v. Nevils*, 598 F.3d 1158, 1163–64 (9th Cir. 2010) (en banc). The jury's acquittal on first-degree murder is not inconsistent with a jury determination that advance knowledge existed because

a general verdict does not necessarily reflect rejection of any particular fact. *United States v. Watts*, 519 U.S. 148, 155–57 (1997) (per curiam). Ritze’s workplace statements, the boat’s unusual departure time and distance from shore, and Ritze’s tracking Dao’s widow via GPS and discussing insurance proceeds with Le after Dao’s death support a finding of malice aforethought sufficient for second-degree murder. *See United States v. Begay*, 33 F.4th 1081, 1091 (9th Cir. 2022) (en banc).

As to causation, proximate cause requires only that Ritze’s conduct “played a substantial part in bringing about” Dao’s death. *United States v. Pineda-Doval*, 614 F.3d 1019, 1024, 1038 (9th Cir. 2010) (quoting *United States v. Main*, 113 F.3d 1046, 1050 (9th Cir. 1997)). It does not require demonstrating that Dao would have certainly survived if Ritze had taken steps to help him after he had entered the water. Dr. Paunovic’s testimony therefore does not undermine the jury’s permissible inference that Ritze’s participation in stranding Dao at sea played a substantial part in his death.

Because the district court did not err in the decisions discussed above, and because a defendant may not withhold available evidence at trial and later seek a new trial to present it, *Brandon v. United States*, 190 F.2d 175, 178 (9th Cir. 1951), the district court did not abuse its discretion in denying Ritze’s Rule 33 motion for a new trial. *United States v. Alston*, 974 F.2d 1206, 1211–12 (9th Cir. 1992).

6. The district court’s rejection of a minor-role reduction under U.S.S.G. § 3B1.2(b), although not framed in the precise terminology set out in *United States v. Dominguez-Caicedo*, 40 F.4th 938, 960 (9th Cir. 2022), reflected an adequate, if implicit, comparative assessment of Ritze’s culpability relative to Le’s—particularly given the district court’s observation that “there are basically only two participants in this offense.” The court’s four-page discussion, which addressed Ritze’s workplace statements, her failure to attempt rescue, her GPS tracking of Dao’s widow, and her continued relationship with Le, together with the court’s statement that Ritze ranked “one step lower” than Le, sufficiently related to the required comparative factors. *See United States v. Klensch*, 87 F.4th 1159, 1164 (9th Cir. 2023) (“We assume district courts know the law and understand their obligation to consider all of the sentencing factors, and they do not have to tick off sentencing factors to show that they considered them.” (citation modified)).

Finally, Ritze argues that the district court erred by failing to specifically address the mitigating evidence she presented in support of a reduced sentence under 18 U.S.C. § 3553(a). But the district court adequately considered Ritze’s mitigation evidence, expressly referencing § 3553(a) and acknowledging that it had “very carefully considered the circumstances of the offense, and the history and characteristics of the Defendant” before concluding that “the callousness of this far outweighs and outbalances those efforts.” *See Klensch*, 87 F.4th at 1164.

AFFIRMED.