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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

JULIUS MARDELL SCOTT,

Defendant and Appellant.

A140772

(Alameda County  
Super. Ct. No. C171545)

Defendant Julius Mardell Scott appeals from a judgment of conviction for first-degree murder of Shanika Lashaun Latham (Pen. Code, § 187, subd. (a)), with true findings of related firearm use and great bodily injury enhancements (Pen. Code, §§ 12022.5, subd. (a), 12022.53, subds. (b), (c), (d) and (g), 12022.7, subd. (a)) (count one); attempted murder of Lawrence Nero (Pen. Code, §§ 187, subd. (a), 664), with true findings of related firearm use and great bodily injury enhancements (Pen. Code, §§ 12022.5, subd. (a), 12022.53, subds. (b), (c), (d) and (g), 12022.7, subd. (a)) (count two); possession of a firearm by a felon (Pen. Code, § 29800, subd. (a)(1)) (count three); possession of cocaine for sale (Health & Saf. Code, § 11351) (count four); and possession of methamphetamine for sale (Health & Saf. Code, § 11378) (count five). At a bifurcated proceeding, the court found true that Scott had sustained (1) a conviction for first-degree residential robbery (Pen. Code, § 211), which qualified as both a prior strike conviction under the “Three Strikes” law (Pen. Code, § 667, subd. (e)(1), 1170.12, subd. (c)(1)) and a prior serious felony conviction (Pen. Code, § 667, subd. (a)(1)) (first prior conviction), and (2) a conviction for possession of cocaine base for sale (Health & Saf. Code,

§ 11351.5) for which he had served a separate prior prison term (Pen. Code, § 667.5, subd. (b)) (fourth prior conviction). At sentencing, the court imposed consecutive terms aggregating to an indeterminate term of 100 years to life and a determinate term of 22 years and eight months. Pertinent to the issues raised on this appeal, the court imposed sentence enhancements of five years for the prior serious felony conviction and three years for the prior prison term conviction, both to be served concurrently to the indeterminate term imposed on count one.

The parties agree, and we concur, that the trial court erred in imposing a three-year term for the prior prison term enhancement. The prior prison term had been served for a conviction for possession for sale of cocaine base in violation of Health and Safety Code section 11351.5. Thus, the appropriate sentence was a one-year term (Pen. Code, § 667.5, subd. (b)), and not three years. The parties also agree, and we concur, that the abstract of judgment for the indeterminate terms does not accurately reflect that at sentencing the court imposed concurrent terms on the prior serious felony and prior prison term enhancements, and not consecutive terms as it now appears reflected in that abstract of judgment.

Accordingly, we shall remand the matter to the trial court to (1) amend its sentence minute order to reflect that the term imposed on the prior prison term enhancement is one year, and (2) issue an amended abstract of judgment for the indeterminate terms to reflect both the one-year term imposed on the prior prison term enhancement and that the prior serious felony and prior prison term enhancements are to be served concurrently to the indeterminate term imposed on count one.

#### **DISPOSITION**

The matter is remanded to the trial court for the issuance of an amended sentence minute order and amended abstract of judgment for the indeterminate terms consistent with this opinion. The trial court shall forward a copy of the corrected abstract of judgment for the indeterminate terms to the California Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.

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Jenkins, J.

We concur:

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McGuinness, P. J.

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Siggins, J.