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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.

MARK VINCENT HALL,

Defendant and Appellant.

A141021

(Alameda County  
Super. Ct. No. H53115)

Defendant Mark Vincent Hall was convicted by a jury of: sodomy by force (Pen. Code, § 286, subd. (c)(2)(A)); kidnapping (Pen. Code, § 207, subd. (a)), with personal infliction of great bodily injury (Pen. Code, § 12022.7, subd. (e)); willful, deliberate, and premeditated attempted murder (Pen. Code, § 187, subd. (a), 664, subd. (a)), with great bodily injury; corporal injury to a cohabitant (Pen. Code, § 273.5, subd. (a)), with great bodily injury; criminal threats (Pen. Code, § 422); and disobedience of a stay away order (Pen. Code, § 166, subd. (c)(1)). Hall did not contest corporal injury to a cohabitant, criminal threats, and disobedience of the stay away order. He was sentenced to 18 years and eight months to life in prison.

Hall contends that the judgment must be reversed because the court denied his *Marsden* (*People v. Marsden* (1970) 2 Cal.3d 118) motion, and his attempted murder conviction must be reversed because the court overruled his Evidence Code section 352 objection to the introduction of gang evidence. We conclude that the court conducted an adequate *Marsden* inquiry, and did not abuse its discretion in denying the *Marsden*

motion. We further conclude that any possible error in admitting the gang evidence was harmless. We therefore affirm the judgment.

## **I. BACKGROUND**

Victim Jane Doe met Hall in May 2009, and they began living together with her three children a little over a month later. Doe testified that Hall told her that he was a “black belt in . . . martial arts.” “[H]e kept on announcing he was a black belt,” but Doe never saw any proof of that. In early 2011, he told her that he had once killed people on the orders of a gang called Mo 5. Doe testified she “didn’t initially believe” this claim, and was “unsure” whether it was true.

Doe testified that she and Hall first broke up in February 2011 after he got into an altercation with her daughter, who was 23 years old by the time of trial in 2013. Hall, Doe, and her daughter went to a baby shower, where Hall, who had recently lost his job, got upset with another guest who said she would not want to date someone who was unemployed. While driving home, Hall blamed Doe’s daughter for starting the problem at the party, and he and the daughter argued. Doe testified that Hall stopped the car in the middle of a residential street, got out, grabbed Doe’s daughter, and tried to pull her out of the car. Doe kicked Hall and he let the girl go.

Doe’s daughter told Hall, “I’m going to call the police. You jumped on me.” He told her “that he would have somebody come and get the whole family.” Doe said Hall was “driving really crazy” and they were pulled over by the police. Against the officer’s orders, Hall got out of the car and they pulled their guns on him. He was placed in a police car, and an officer told Doe that he was being arrested. The next day, Doe told Hall to move out of their home and he did.

Officer Rucker’s report of the traffic stop was read to the jury. The car was pulled over because its registration had expired. Hall got out of the car in disregard of the officer’s order and approached the officer. Hall ignored the officer’s warnings but stopped advancing when the officer drew a weapon and pointed it at him. Other officers arrived and Hall was briefly detained. He was cited for the expired registration and released at the scene.

Doe testified that after Hall moved out, he appeared to be living nearby in his car. In June of 2011, she and Hall resumed their relationship after he told her at church that he was a changed man. Hall apologized to Doe and her family and moved back in with them.

Doe testified that Hall sexually assaulted her in July 2011, two weeks before the night he attacked her, by sodomizing her against her will.

Doe testified that on July 30, the night of the attack, she went with Hall to a “sip and say” party—where “[y]ou sip and say what you like about someone”—four miles from their home. They drank, danced, and played table games. Hall spent a long time in the kitchen talking to the chef and a server named Adam. Doe told Hall she wanted to leave, but he refused. She went out to their car and waited for him. When she returned to the party to tell him she was leaving, she was surprised to see Hall holding hands with Adam. She took a picture of them holding hands, told Hall “he made his decision,” left the party, and drove home around 4:00 a.m. She had decided her relationship with Hall was over. She texted Hall the picture with Adam, said she was done and he could have Adam.

Doe testified that Hall arrived home between 4:30 and 5:00 a.m., and locked the door behind him. She was standing at the top of a staircase when he locked the door. He told her that she was going to die for leaving him, and that he should have killed her and the children a long time ago. Hall ran to the kitchen and grabbed a block of knives. She thought he would kill her, so she ran down the stairs, unlocked the door, and went outside. He took two of the knives, and chased her outside. She reached the front of her car and fell. He got on top of her holding a knife. She screamed and kicked and scratched, and the knife was dislodged from his hand. He punched her on the side of her head and she “blanked out.” When she regained consciousness Hall was dragging her inside, and they had almost reached the front door. She tried to close the door but he pushed her and she fell on her stomach. He jumped on her back and punched her with his fists 25 or 30 times before she passed out. She regained consciousness in the hospital.

Doe's neighbor Yolanda Hernandez testified that an argument outside woke her up on the morning of July 31. She heard a man say, "Bitch, but you left me." She heard something hit a car, and then a woman screaming for help. She went to her window and saw a man and woman "tussling" by the front of Doe's car, but it was dark and she could not identify them. She did not see a weapon. When she saw the man hit the woman and knock her to the ground, Hernandez called 911. The transcript of the call shows that Hernandez heard a woman scream for help, saw a man and a woman outside, and "the guy is abusing the lady." She reported that "he started to really hit her like really bad he dragged her into the house, they just closed the door . . . ." After the call, she saw the man drag the woman by her arm and hair under the roof of a carport. Police arrived quickly thereafter.

Hayward Police Officer Manuel Troche arrived at the scene around 6:00 a.m. He heard a man inside an apartment yell, "you ain't fucking leaving me," and a woman say, " 'I'm sorry' in a whimpering voice like crying." Troche approached the door accompanied by officers Miller, Faria, and Norris. Miller twice knocked loudly on the door and ordered it to be opened for the police. Troche heard the man yell, "I'm going to fuck you up," and then what sounded like a fist hitting flesh. He kicked open the door and Hall was straddling Doe who was lying on her back— "ground and pound style, a full mount." Hall had a dazed look and had apparently been hit by the door when it was kicked in. He was two feet from a block of knives on the second stair. Troche pulled him off Doe and out of the house, where he was handcuffed. Doe was severely beaten. Her face was swollen and completely covered in blood. She was mumbling and "really out of it."

In his report of the encounter, Officer Miller wrote that he picked up loose knives from the stairs and put them on the roof of a car. Officer Faria's report stated that Hall had minor abrasions on his face, and bloodstains on the back of his undershirt.

A crime scene technician testified that blood was found on a car outside Doe's home and in front of the doorway. Blood spatter was found inside on the stairs and a curtain.

One of Doe's treating physicians at the hospital testified that when she was admitted she had bruising on her body, extensive facial swelling, and a laceration near her left eye. She had no broken facial bones or bleeding in her brain, but appeared to have suffered a concussion. She was awake and responsive when she arrived, but might not recall being conscious because of delayed amnesia produced by the concussion. She spent five days in the hospital, and returned the following month because of headaches and blurred vision.

A protective order was issued on August 2, 2011, forbidding Hall from any contact with Doe. On March 7, 2012, in a recorded call from jail, Hall asked a woman to call Doe and tell her "I don't know if she is with anybody right now, but I apologize." When Doe heard Hall get on the phone, she hung up. Hall asked the woman to call Doe again and tell her "I apologize for everything that happened . . . I'll try to do whatever I can to make everything right." When Doe answered, the woman told her, "I don't know him. My husband is in there with him. So I was just making another phone call for him. But what he was saying . . . that he was sorry for everything that happened and he said also that he was going to try to make everything better." The woman told Hall that Doe replied, "Go to hell."

The court confirmed with Hall that he did not wish to testify in his defense. The defense case consisted of the police reports of officers Rucker, Miller, and Faria, which were read into the record.

## **II. DISCUSSION**

### **A. Marsden Ruling**

#### *(1) Record*

When the court was considering motions at the beginning of trial, Hall expressed dissatisfaction with his appointed counsel and the court convened a *Marsden* hearing.

The court asked Hall to explain his dissatisfaction with his attorney. Hall said that when they first met, defense counsel told him he did not have any other cases. He said that counsel did not follow through with his request for a speedy trial, telling him "that he had other cases all of [a] sudden and that they were serious cases also." Hall's next point

was not entirely clear, but he appeared to be complaining that his meetings with counsel at the jail were too brief.

Hall said, “I have evidence to prove everything in my case, which I sat there and was trying to tell [counsel] and it’s like he’s not trying to do anything about it. . . . So I had my mom send him information on the page number and the line number of each witness report and police officer report to back up everything I’m saying, and it’s like he’s not putting in any motions on these things.” He continued: “I asked him to put in certain motions and he said he wouldn’t do it. And then we had this conversation yesterday. I asked him to put in certain motions based on evidence that I had. And he told me he wasn’t going to do it. So I said, well, there’s nothing else for us to talk about.”

Counsel’s response began with his experience, which included work as a public defender for eight years, 35 or 36 cases tried to jury verdicts, and representation of three clients charged with special circumstance homicide. The court stated: “Listening to Mr. Hall, I found four areas that he seems upset with. One is, he thought for whatever reason you made the representation that this was your only case. [¶] Two was, that he feels somehow his speedy trial rights have been violated. [¶] Three is, that you have not spent enough time on this case. [¶] And No. 4 is . . . that you’re not examining his evidence and/or making whatever motions, legal motions he wants. [¶] So, if you could discuss those four areas.”

Counsel noted that, as a public defender, he had always worked on more than one case at a time, but said he might have told Hall that he had only one case pending for trial. He elaborated: “I remember the conversation we had in the context of his speedy trial rights. In March he did want a speedy trial . . . but at that time I was in trial on another life case. . . . When I went to see him at the conclusion of my trial to talk to him about his speedy trial rights, he didn’t want a speedy trial. . . . I’ve been ready to try this case since I finished my other trial in March.”

When he addressed the amount of time he had spent on the case, counsel stated: “I believe I have made at least six to seven trips out to Santa Rita to see Mr. Hall. We

have sat down and talked about his case at length. . . . My notes are evidence that I have spent time with him. Not only that, he gave a three-and-a-half-hour interview with the police and I've watched that, so I know exactly what he wants to tell me.”

Counsel said that Hall did not “totally understand how the trial process works” and would not listen to his lawyer’s explanations. Counsel said that Hall believed he was the victim in the case, and that they “used to talk but the last few times I’ve gone to see him, last two, three or four times he’s been upset at me since I told him he’s not the victim.” He told Hall that motions “would be the ground rules for the trial, what evidence comes in, what evidence stays out. [¶] . . . I told him I would be arguing to keep evidence that I thought was prejudicial to him out of the Court.” The motion Hall wanted to make “evince[d] a lack of understanding of the process . . . .”

Counsel concluded: “There’s nothing that is preventing me from doing my very best for Mr. Hall. I’m prepared to do it today. I am prepared to do it throughout the course of trial. I have no animus against him and I intend to do the best for him if the Court will allow me.”

Hall responded: “He’s lying so much. [H]e’s lying through his teeth and he knows it. I’ve been giving him evidence and he doesn’t want to put any motions in . . . like say, for instance, . . . I was arrested on July 31st, 2011. I wasn’t arraigned until August the 5th, well past the 72 hours. He told me there’s nothing he could do about it. . . . [¶] I asked him to go into my property and get the phone number of a guy who can be a key witness to the premeditated attempted murder portion. He said he didn’t even do it. And that’s a key witness. I also had told him, showed him evidence of pictures and witness statements and police reports where the police are saying the same thing that I’m saying. It might not be all four of them at the same time but it’s like each individual one is saying exactly what I am saying. And he’s sitting up there, like, he’s not going to put in any motions to even help me.”

When the court asked Hall about his education., Hall said, “I went to grammar state university. I majored in criminal justice. I was recommended to law school at Southern University. I spent eight years in the U.S. Navy. . . . I am in the whose [sic]

who of America for having 114 out of 100 in criminal law. And I don't know of anybody who has passed my score yet. And . . . I do understand the procedures. The only procedures that I really didn't understand was the one that we was doing the motions. I had to go back to Santa Rita Jail and find out through other inmates that this is where you put in motions right before your jury trial.”

The court expressed concern that Hall was listening to inmates who considered themselves jailhouse lawyers, and asked him if he had anything further to say. Hall said, “We have witnesses who actually have lied and even in the incident report will stipulate and said they weren't even where they say they were. He won't put in any motions to help me in that situation.” He asserted that he was injured more than Doe, and described various health problems he was having, including fallen arches, testicular cysts, and heart attacks.

The court ruled:

“Okay. Look, Mr. Hall, we're not getting anywhere. I am ready to make a decision. I'm going to deny your Marsden motion. First reason is, [counsel] is a criminal law expert. He's only been a public defender. He's tried 35 or 36 cases to verdict including special circumstance murders. So, he knows what he's doing. I would have to say every time he's appeared in my courtroom, he's a gentleman. He's always prepared. He knows what he's doing. What I've learned from this little Marsden hearing is you don't listen. I think you think you can run this case or you've got, you know, I don't know whether it's stubbornness or whatever, some knowledge is very dangerous that you want to play a lawyer. And he's not getting through to you.

“ . . . I see absolutely no legal or factual basis to grant this Marsden motion. No public defender—you know, I was an attorney in this County for 16 and a half years and I've been a judge over 20 years in this County, and I know of no public defender that's only had one case on their caseload. I know no public defense that would not honor a request for a speedy trial.

“And once again, [counsel] has always been a gentleman. He’s always been prepared. He’s always done an excellent job in every proceeding he’s had before me. Looking at his record, there’s no basis to grant this Marsden motion.

“So the Marsden motion is denied.”

(2) *Analysis*

When a *Marsden* motion is made, “the trial court must permit the defendant to explain the basis of his contention and to relate specific instances of inadequate performance. A defendant is entitled to relief if the record clearly shows that the appointed counsel is not providing adequate representation or that defendant and counsel have become embroiled in such an irreconcilable conflict that ineffective representation is likely to result.” (*People v. Smith* (2003) 30 Cal.4th 581, 604.) The trial court’s ruling is reviewed for abuse of discretion. (*Ibid.*)

Hall contends the court abused its discretion for three reasons. First, he argues that the court violated the rule that “a judge cannot base his disposition of a request for substitution of counsel on his or her own confidence in the current attorney and observations of that attorney’s previous demonstrations of courtroom skill.” (*People v. Hill* (1983) 148 Cal.App.3d 744, 755.) In support of this argument, Hall observes that the court mentioned these considerations at the beginning and end of its explanation for denying the motion. “A judge who denies a motion for substitution of attorneys solely on the basis of his courtroom observation abuses the exercise of his discretion to determine the competency of the attorney.” (*Marsden, supra*, 2 Cal.3d at p. 124.) However, the court’s ruling was not based solely on its assessment of counsel’s previous performance. The record shows that the court determined Hall lacked credibility when he claimed that counsel told him he had only one other case and counsel did not honor his request for a speedy trial. The court’s assessment of Hall’s credibility was entirely reasonable and does not demonstrate an abuse of discretion.

Second, Hall contends that the court’s inquiry into his complaints was insufficient. “[T]he judge’s obligation to listen to an indigent defendant’s reasons for claiming inadequate representation by court-appointed counsel is not a pro forma function. . . .

[U]nder some circumstances a court's ruling denying the request for a substitution of attorneys without a careful inquiry into the defendant's reasons for requesting the substitution 'is lacking in all the attributes of a judicial determination.' ” (*People v. Munoz* (1974) 41 Cal.App.3d 62, 66; see also *People v. Stewart* (1985) 171 Cal.App.3d 388, 398, disapproved on another ground in *People v. Smith* (1993) 6 Cal.4th 684, 696 [the court must “not only listen to a defendant's volunteered reasons for believing he has been denied effective representation, but also make an active inquiry into those reasons”].) There was no deficiency in the court's inquiries here.

Hall contends that the court should have followed up on his allegations that counsel failed to contest his untimely arraignment and failed to investigate a key witness and police reports that would support his defense. Rather than ask about those specific allegations, the court asked Hall about his education. When Hall said he was “in the whose (*sic*) who of America for having 114 out of 100 in criminal law” and was consulting other inmates about his defense, the court had reason to doubt his credibility and judgment. Under the circumstances, the court could reasonably conclude that further inquiry would be futile, and there was no substance to his claims that counsel was neglecting his defense.

Third, Hall argues that the hearing revealed he and counsel were “embroiled in an irreconcilable conflict.” He says they accused each other of misrepresenting matters to the court, and expressed problems with their ability to communicate with each other. Even though there was some conflict, the record did not establish “that ineffective representation [was] likely to result.” (*People v. Smith, supra*, 30 Cal.4th at p. 604.) The court could reasonably accept counsel's statements that he bore Hall no animus, and was able and prepared to competently represent him.

Hall's dissatisfactions centered on the strategy of his defense, and “[a] disagreement concerning tactics is . . . insufficient to compel the discharge of appointed counsel, unless it signals a complete breakdown in the attorney-client relationship. [Citations.] In determining whether defendant and counsel have become embroiled in such an irreconcilable conflict that ineffective representation is likely to result, trial

courts properly recognize that if a defendant's claimed lack of trust in, or inability to get along with, an appointed attorney were sufficient to compel appointment of substitute counsel, defendants effectively would have a veto power over any appointment and by a process of elimination could obtain appointment of their preferred attorneys, which is certainly not the law." (*People v. Crandell* (1988) 46 Cal.3d 833, 859–860.) The court could reasonably find that there was no irreconcilable conflict that would disqualify counsel from representing Hall.

## B. Gang Evidence

### (1) *Record*

Hall moved in limine to exclude "statements that [he] allegedly told [Doe] that he was a gang member in Chicago and killed people." The defense argued the evidence should be excluded under Evidence Code section 352 and the due process clauses of the state and federal constitution. Counsel argued that the evidence of the gang statements was not credible because Doe first reported them "almost a year after the fact . . . [¶] . . . just . . . to further hurt my client." The prosecution argued that the statements should be admitted because they had bearing on Doe's state of mind on the criminal threats charge, which required the prosecution to prove that Hall's threat reasonably caused Doe to be in sustained fear for her safety. (Pen. Code, § 422.) The court denied Hall's motion without comment.

When the issue was discussed later in connection with Hall's prior criminal history, the court said the statements that he had been a gang member and killed for the gang were relevant, even if they were "totally untrue" and he was "just . . . trying to scare the victim." The statements were "admissions related to when somebody makes criminal threats." The defense argued that the statements had limited probative value because "when my client allegedly walks in and says he's going to kill people and kill family members and allegedly runs for a knife, I think that's a 422. . . . [T]his fact about the issue with the gangs and killing people . . . was not even in her mind . . . when she heard the words from my client. . . . [¶] . . . [T]he circumstances dictate the 422 . . . not [the] . . . purported statements of my client . . . ." The court made clear the gang statements were

admissible, and said “I’ll leave it up to the jury whether or not these statements were made and what, if anything, affect they had.”

When Doe testified about Hall’s gang statements, she admitted on cross-examination that she did not initially believe them and was unsure whether they were true. She testified that he made the statements in early 2011 and he told her that his gang activity was “years ago.”

In closing argument the prosecutor stated: “[Doe] indicated to you that the defendant bragged about his martial arts skills and he had told her sometime in 2010, 2011 that he had been a member of a gang and had actually killed people as a hit man. Ladies and gentlemen, you’re going to get instructions that indicate certain evidence in this case can only be used for a limited purpose. This is one of those things. It only goes to whether her fear under the criminal threats count was reasonable. So, if someone tells you they have committed violence or that they are capable of doing harm, when they tell you I’m going to kill you, I’m going to hurt you, is it reasonable for you to believe, in fact, that they are going to do it and can do it. That’s limited purpose that this is for. This not to say who or whether Mr. Hall is good or bad guy or whether, in fact, he was a martial arts instructor or he had killed people in the past. There’s no evidence of that.”

The prosecutor told the jury he did not expect the defense to contest the alleged criminal threats, and the defense conceded the charge.

## (2) *Analysis*

Hall contends that the court should have excluded the gang evidence under Evidence Code section 352 because it was so prejudicial, and that admission of the evidence was so damning as to violate his federal constitutional right to due process. However, admission of evidence in violation of state law also violates due process only if makes the trial fundamentally unfair. (*People v. Partida* (2005) 37 Cal.4th 428, 439.) Hall’s statements about his gang history were a very small part of the prosecution’s case. While Hall argues the statements tainted his prosecution for attempted murder, the prosecutor did not seek to exploit the evidence to obtain a conviction on that charge. To the contrary, he told the jury that the evidence of Hall’s gang involvement could only be

considered in connection with the charge of criminal threats. Thus, admission of the evidence did not render the trial on the attempted murder charge fundamentally unfair. The error, if any, in admitting the evidence was one of state law only.

Just as he argued in the trial court, Hall says the gang statements had little probative value on the threats charge because other evidence established Doe's sustained fear for her life beyond any reasonable dispute. Doe's testimony about the sequence of events after the threat to kill her was made, when Hall ran to the kitchen and grabbed a block of knives, followed her outside with knives to stab her, punched her unconscious, dragged her back inside, got on top of her and pummeled her with his fists, left little doubt that anyone in her position would have been in sustained fear. Hall argues, citing numerous cases, especially in light of its limited probative value admission of the gang evidence was potentially very inflammatory and prejudicial. (See, e.g., *People v. Memory* (2010) 182 Cal.App.4th 835, 862 [“ ‘legions of cases and other legal authorities have recognized the prejudicial effect of gang evidence upon jurors’ ”].)

“ ‘In general, the trial court is vested with wide discretion in determining relevance and in weighing the prejudicial effect of proffered evidence against its probative value.’ ” (*People v. Valencia* (2008) 43 Cal.4th 268, 286.) Even if we assume for purposes of this opinion that the court erred in admitting the evidence about Hall's gang involvement, we conclude it did not prejudice his defense of the attempted murder charge under the standard of *People v. Watson* (1956) 46 Cal.2d 818, 836 (*Watson*) for the same reasons we have rejected Hall's claim of constitutional error.

The gang statements were a small fraction of the prosecution case, and the prosecutor told the jury it could consider the statements only for the charged threats. The prosecutor's arguments for attempted murder focused on Doe's testimony about the events that followed Hall's return home the night of the attack when he told Doe she was going to die, and corroboration of that testimony, which included Hernandez's observations of Hall hitting and dragging Doe, Troche's description of what he saw and heard at the scene, the blood evidence, and Doe's extensive injuries. The defense argued, plausibly, that “[i]f [Hall] wanted her dead, she would be dead,” given his access to the

knives. It is not reasonably probable the jury rejected that argument because Hall once said he had killed for a gang when the prosecutor said his statements had no bearing on the attempted murder charge.

Hall argues that we cannot consider the prosecutor's remarks "to have dispelled [the] prejudice" caused by admission of the gang statements because the jury instructions, "viewed as whole, allowed the jury to consider [them] in such a way that he was prejudiced regarding his conviction for attempted murder." The jury was instructed pursuant to CALCRIM Nos. 358 and 359 that, subject to certain qualifications, it could consider Hall's out-of-court statements in deciding his guilt. The jury was instructed pursuant to CALCRIM No. 220 that, "[i]n deciding whether the People have proved their case beyond a reasonable doubt, you *must* . . . consider *all* the evidence received throughout the entire trial." (Italics added.)

Although the prosecutor told the jury "you're going to get instructions that indicate certain evidence in this case can only be used for a limited purpose," Hall notes there was no instruction that the gang statements could be considered only for the criminal threats count. The jury was instructed pursuant to CALCRIM No. 303: "During the trial, certain evidence was admitted for a limited purpose. You must consider that evidence only for that purpose and for no other." But as Hall observes, this instruction did not expressly refer to the gang statements. Hall acknowledges the jury was instructed pursuant to CALCRIM No. 375 that it could consider evidence of uncharged offenses only for the limited purpose of deciding motive to commit the alleged crimes.

It is not reasonably probable that the jury would have interpreted the instructions to allow his statement about gang involvement to prove he intended to murder Doe. It is possible, but unlikely, that the jury would have construed CALCRIM No. 220's broad admonition to consider all evidence in deciding whether the People had proved their case as a directive to consider the gang statements for purposes other than argued by the prosecutor. It is also possible, but unlikely, that the CALCRIM 375 instruction limiting consideration of other crimes evidence to issues of motive would have caused the jury to ignore the prosecutor's position that the gang statements could be considered for another

limited purpose. More likely, the jury likely would have understood the CALCRIM No. 303 instruction regarding evidence admitted for a limited purpose to refer to the gang statements since it was the only limited purpose evidence that was admitted, and followed the instruction's directive to limit its consideration of that evidence the prosecutor's stated purpose. The instructions do not substantiate Hall's argument for prejudice.

Since it is not reasonably probable that admission of the gang statements had any influence on the attempted murder conviction, any error in admitting that evidence was harmless under *Watson*.

### **III. DISPOSITION**

The judgment is affirmed.

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Siggins, J.

We concur:

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Pollak, Acting P.J.

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Jenkins, J.

*People v. Hall*, A141021