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

THE PEOPLE,

Plaintiff and Respondent,

v.

JARVONNE FEREDELL JONES,

Defendant and Appellant.

C060376

(Super. Ct. No.
08F04254)

A jury convicted defendant Jarvonne Feredell Jones of three firearms offenses and the trial court found he had previously served a prison term. (Pen. Code,¹ §§ 12021, subd. (a)(1), 12025, subd. (b)(6), 12031, subd. (a)(2)(F), 667.5, subd. (b).) Defendant was sentenced to prison for four years, and he timely appealed.

¹ Further undesignated statutory references are to the Penal Code.

Defendant contends the trial court should have stayed the sentences for two counts pursuant to section 654 and that the abstract reflects jail fees that were not orally pronounced at sentencing. The Attorney General partly conceded the former claim. After we ordered a stay of one count, the California Supreme Court granted review, held that two counts must be stayed, and remanded the matter for further proceedings. (*People v. Jones* (2012) 54 Cal.4th 350 (*Jones*).) We shall modify the sentence and otherwise affirm.

FACTS

"On May 26, 2008, police searched the car defendant, a convicted felon, was driving and found in a door panel a loaded .38-caliber revolver that was not registered to him. Defendant said he had bought the gun already loaded three days earlier 'for protection.' He explained that he had kept the gun at his grandmother's house and had 'just picked the gun up from there and that's why the gun was in the car.'" (*Jones, supra*, 54 Cal.4th at p. 352.)

DISCUSSION

I

Counts Two and Three Must be Stayed

Defendant was convicted of possession of a firearm by a felon (count one, § 12021, subd. (a)(1)), carrying a readily accessible concealed and unregistered firearm (count two, § 12025, subd. (b)(6)), and carrying an unregistered loaded

firearm in public (count three, § 12031, subd. (a)(2)(F)).

The trial court imposed the upper term of three years on each count, ordered counts two and three to be served concurrently, and added a year for defendant's prior prison term, for a total unstayed prison term of four years. *Jones* held the sentences on two counts must be stayed (§ 654). (*Jones, supra*, 54 Cal.4th at pp. 359-360.) Accordingly, we modify the judgment (§ 1260) by imposing a stay of execution of the sentences for counts two and three.

II

The Jail Fees were Properly Imposed²

When a defendant is convicted, the county may recoup the "actual administrative costs . . . incurred in booking or otherwise processing arrested persons." (Gov. Code, § 29550.2, subd. (a); see *People v. Rivera* (1998) 65 Cal.App.4th 705.)

The probation report made six recommendations, including a prison sentence, an \$800 restitution fine and an equivalent, stayed, parole revocation fine, and recommended the trial court order defendant to "pay a court security surcharge fee" of \$60, "pay a \$242.29 main jail booking fee" and "pay a \$27.22 main jail classification fee", and both of the latter were "pursuant to Section 29550.2 of the Government Code[.]"

² The California Supreme Court did not grant review of this issue. We replicate our earlier analysis for completeness.

After imposing concurrent upper-term prison sentences, the trial court made the following orders: "Impose the restitution fine of \$200, a . . . parole revocation fine of \$200 to be stayed upon successful completion of parole; order that you pay the court security surcharge, main jail booking fee and main jail classification fees."

The abstract and court minutes reflect the three fees in the amounts recommended by the probation officer, a \$60 court security fee, a \$242.29 booking fee and a \$27.22 jail classification fee.

Defendant contends that because the trial court did not recite the amount of the booking and jail classification fees, they were not properly imposed. He does not raise a similar challenge as to the \$60 court security fee.

Defendant relies on the rule that "Where there is a discrepancy between the oral pronouncement of judgment and the minute order or the abstract of judgment, the oral pronouncement controls." (*People v. Zackery* (2007) 147 Cal.App.4th 380, 385 (*Zackery*)). The abstract of judgment and court minutes must accurately reflect what the trial court ordered, and the clerk, in preparing those documents, lacks the power to add fines or fees not imposed by the court. (*Zackery, supra*, 147 Cal.App.4th at pp. 386-390.)

But in this case, there is no discrepancy between the abstract, the minutes and the trial court's order. Although the

trial court did not recite the amounts of the jail booking and classification fees, the trial court ordered that they be paid. The trial court was following the recommendations of the probation officer in the order presented in the report, although it disagreed with the sentence and the amount of the restitution fines. The parties had the probation report and could follow the trial court's orders. Defendant did not object to the amount of the fees or to the failure to recite that amount. No doubt this is because the amount—actual administrative costs was routinely calculated. For lack of objection, we presume the amounts in the probation report reflect the correct administrative costs incurred for booking and classifying defendant into jail. (See *People v. Bartell* (2009) 170 Cal.App.4th 1258, 1262; *People v. Evans* (1983) 141 Cal.App.3d 1019, 1021.)

This is not like cases where a clerk adds some fee or fine that was not actually imposed. The clerk accurately captured in the minutes and the abstract the trial court's imposed judgment. Although the trial court should have recited the amounts, we see no basis for striking those two orders in this case.

DISPOSITION

The judgment is modified by staying execution of the sentences on counts two and three pursuant to section 654, and as so modified is affirmed. The trial court is directed to

forward a new abstract of judgment to the Department of
Corrections and Rehabilitation.

DUARTE, J.

We concur:

BLEASE, Acting P. J.

ROBIE, J.