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

THE PEOPLE,

Plaintiff and Respondent,

v.

JORDAN ISIAH KIDD,

Defendant and Appellant.

C062075

(Super. Ct. No.
07F01299)

THE PEOPLE,

Plaintiff and Respondent,

v.

ZACHARY TYLER et al.,

Defendants and Appellants.

C062512

(Super. Ct. No.
07F01299)

ORDER MODIFYING OPINION
AND DENYING REHEARING

[CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on January 26, 2012, be modified as follows:

1. On page 43, in part II(G) of the Discussion, at the end of the first paragraph, after the sentence "And, Merritt argues, because she was only 15 years old at the time of the offense, such a sentence constitutes cruel and unusual punishment," add the following sentence:

Griffin likewise argues that, because he was only 17 at the time of the offenses, his sentence of 19 years 8 months, plus 65 years to life, amounts to cruel and unusual punishment.

2. On page 48, in part II(G) of the Discussion, the last full paragraph, beginning, "The foregoing applies equally to Merritt," is deleted and the following paragraph is inserted in its place:

The foregoing applies equally to Merritt and Griffin. The sentences imposed upon them for this one night of crimes committed in concert with their older gang compatriots when they were under 18 years old guarantees they will die in prison without any meaningful opportunity for release, regardless of what they might do over the rest of their lives to demonstrate they are fit to rejoin society. Such sentences are prohibited by the Eighth Amendment.

3. On page 70, in part III(E) of the Discussion, the last sentence, "We shall direct that the abstract to be corrected," is deleted and the following sentence is inserted:

This can be corrected when Griffin is resentenced.

4. On page 106, in the Disposition, the fourth sentence of the first paragraph beginning, "The determinate terms," is deleted and the following sentence is inserted:

The determinate terms on Kidd's sentence for counts two, six, eleven and twelve are reversed, and the entire sentences of Merritt and Griffin are reversed.

5. On page 106, in the Disposition, the first sentence of the last paragraph beginning, "The matter is remanded," is deleted and the following sentence is inserted:

The matter is remanded to the trial court with directions to resentence Kidd on counts two, six, eleven and twelve and to resentence Merritt and Griffin to overall terms of imprisonment that provide them a meaningful opportunity for parole during their lifetimes.

This modification changes the judgment.

Appellants petitions for rehearing are denied.

_____ HULL _____, Acting P. J.

_____ ROBIE _____, J.

_____ MAURO _____, J.