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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSEPH PATRICK GRIESA,

Defendant and Appellant.

C066058

(Super. Ct. No. CRF-08-458)

In June 2009, a jury convicted defendant Joseph Patrick Griesa of annoying or molesting his 17-year-old employee and contributing to her delinquency, acquitted him of sexually battering her, and was unable to reach verdicts on five other counts involving her. The jury also found him guilty of concealing a pair of 14-year-old runaways from their parents, and of contributing to their delinquency. The jury acquitted him of two counts of sexual offenses against two other victims.

In addition to these crimes against the person, the jury convicted him of two counts each of failing to file returns under the Unemployment Insurance Code (UIC) or making required UIC payments.

The trial judge subsequently recused herself when she learned of her former husband's "pivotal involvement . . . in the Griesa matter" as an attorney for defendant in negotiations with the prosecutor before defendant's indictment in 2008. The remainder of the Yuba County bench disqualified itself for unspecified reasons, and the Chief Justice assigned a retired Nevada County judge to the case.

A year later, the prosecution agreed to dismiss the five remaining charges involving the teen employee. The trial court granted defendant's motion to reduce the concealment convictions to misdemeanors. The court denied his motion to strike the requirement of registering as a sex offender. It then suspended imposition of sentence and placed defendant on a five-year probationary period (conditioned inter alia on a 270-day jail term).¹

¹ As a result of the registration requirement and jail sentence, defendant received credit only for his one day of actual custody without any conduct credits because he did not serve the necessary increment of days of actual custody. (Pen. Code, former § 4019, subds. (b)(2), (c)(2) & (f) [Stats. 2009, 3d Ex. Sess. 2009-2010, ch. 28, § 50] [four days]; accord, former Pen. Code, §§ 2933, subd. (e)(3) & 4019, subds. (b), (c) & (f) [Stats. 2010, ch. 426, §§ 1, 2, eff. Sept. 28, 2010] [four days] and present Pen. Code, § 4019, subds. (b), (c), (f) & (h)

On appeal, defendant maintains that there is insufficient evidence to sustain his convictions for contributing to the delinquency of the runaways because these were premised on his inducing them to violate curfew and the prosecution did not introduce any evidence regarding the pertinent curfew; the People concede error. Defendant contends there is also insufficient evidence that he concealed the runaways from their parents, or that his conduct with his teenage employee within the statute of limitations would have disturbed a reasonable person (layering claims of prosecutorial misconduct and ineffective assistance of counsel upon the latter). In an argument one could charitably describe as novel, defendant asserts the UIC claims are barred because the "government" failed to exhaust its administrative remedies. Finally, he raises the specter of instructional error in two of the UIC counts, arguing one of them did not include the *type* of report that he had failed to file and the other entirely failed to include the essence of the offense (the willful failure to *remit* the amounts of UIC obligations) among the elements that were listed.

We shall reverse defendant's convictions for contributing to the delinquency of the runaways and for failing to remit obligations due under the UIC. We shall affirm the remaining convictions, and the order granting probation (with directions

[Stats. 2011, 1st Ex. Sess., 2011-2012, ch. 12, § 35, operative Oct. 1, 2011] [two days].)

to amend the order to reflect the statutory components underlying the penalty assessments in the aggregate total of \$1,140 ordered under Pen. Code, § 290.3).

FACTUAL AND PROCEDURAL BACKGROUND

The Teenage Employee

The teen employee was born in 1990 and is known by a nickname (which we omit for reasons of privacy). She began working in the fall of 2006 for defendant's towing company. She succeeded her sister, who was pregnant and leaving the job. While the teen employee testified to defendant's course of physical and sexual abuse commencing after the office Christmas party in 2006, all we need note (given the disposition of the remainder of the charges) is that the prosecution tied the charge of annoying or molesting her explicitly to a series of text messages that defendant exchanged with her (and to a recorded phone call between them) in August through November 2007. The conviction for contributing to her delinquency is based on encouraging her to lie to the police in the events involving the runaways, to which we next turn.

The Runaways

The two runaways were 14. In November 2007, they slipped out of the Linda home of one of their parents on the morning after a Friday night sleepover, leaving a note saying that they wanted more freedom. At a florist shop, they met up with a tow truck defendant had sent to pick them up, which took them to a football game in Yuba City. Defendant was at the game with one

of their boyfriends, who had asked him to send the tow truck. He coached the boyfriend in football (and was familiar as a result with his girlfriend), and the boyfriend was in his care for the weekend.

Defendant had tickets for a dinner dance that evening. After the game, he dropped off the runaways, the boyfriend, and two other teens at a park near his home about a half-hour before dark.

The runaways testified they told defendant that they had absconded from home. He urged them to call their parents, but did not otherwise act on this information. They testified defendant said they could stay at his house for the evening after he left with his wife. He spoke with them later on the phone, telling them to lock themselves in his son's room before he got home so that his wife would not see them. They told him that they had not yet called their parents. He again urged them to do so, because one of their mothers, who knew defendant, had left him a voice mail asking if he knew her daughter's whereabouts.²

Defendant testified that when he dropped off the group at the park, he had told the boyfriend to return to defendant's house when it got dark, and never told the runaways to go to his home. When he returned home, he assumed they had gone home.

² The mother knew defendant through her daughter (who had been to defendant's house before with the boyfriend), and he was a regular customer of her flower shop as well.

Defendant testified he woke early Sunday morning; in checking on his sons, he found that the runaways were in his older son's room with the son and the boyfriend. He told them they had to leave before his wife woke up. He drove them to a fast-food restaurant in Marysville. During the ride, he got some cash for them for food and discussed why they had run away. He dropped them off at the restaurant at about 6:00 a.m.

The runaways called defendant later that morning and told him they did not know what to do. He said they could stay for a while at his towing business. They walked over there, after calling their parents and telling them not to worry (without letting them know where they were). An employee let them in, defendant having told her to expect them. The employee testified that she had been watching for the girls to arrive after defendant's call, and saw a car resembling defendant's distinctive vehicle drop them off at the business. The teenage employee also testified that the girls had told her that defendant had dropped them off at the business after they spent the night at his house.

When the teenage employee arrived at work that morning, the other employee told her defendant had dropped off the two girls and said to call him about them when she arrived. The teenage employee testified defendant told her only that if anyone asked about their presence, she should say they were trainees. Defendant testified he had told the teenage employee not to get involved with the two girls.

Two police officers arrived shortly afterward. A citizen had flagged them down to report juvenile runaways being on the premises. The teenage employee told them the two girls were trainees and were not minors. In speaking to the officers outside, the girls admitted being minor runaways. The officers confronted the teenage employee with this information, who admitted that defendant had brought them there. When the officers called defendant, he denied any knowledge of the presence of the runaways, at which point the officers arrested the teenage employee. The officers called the parents,³ who came to pick up the girls.

UIC Evidence

A supervising state investigator of employment tax evasion explained that an employer is required to report any quarterly wages to an employee in excess of \$100. On these wages, the employer is required to collect and remit employer taxes for unemployment and retraining benefits, and employee payments for disability and income tax. The investigator noted that "unemployment insurance tax, training tax, and the . . . personal income tax" have their statutory basis in division 1 of the UIC and "[d]ivision 6 then falls into your disability insurance."⁴ A failure to account properly for contributions

³ Defendant also returned the mother's call at about the same time, letting her know her daughter was at the tow shop.

⁴ The investigator apparently misspoke. As the prosecutor correctly pointed out in closing argument, division 6 is concerned with withholding taxes and division 1 is the statutory basis for the remainder.

from a specific employee can lead to a denial of benefits when that employee files a claim. The state investigator had reviewed his department's records for defendant's business from the first quarter of 2004 through the third quarter of 2008. He did not find any wages reported in that time period for the teenage employee (or two other names about whom the prosecutor asked). He did, however, find reports for the teenage victim's sister from the first quarter of 2006 through the third quarter of 2007, long after she had left defendant's employ in the third quarter of 2006.

As defendant admitted to a prosecution investigator, he paid the teen victim under her sister's name. At trial, he claimed he did not have the necessary information for the teen employee, because at the outset he thought she was going to fill in for her sister only intermittently. The sister testified, however, that defendant did this over her objections in order to help the teen employee qualify for financial aid. This resulted in the sister's liability for reimbursing the disability payments that she had received while on maternity leave.

As for the other two employees who were the subject of the state investigator's testimony, they themselves testified they had worked for defendant during the time period reviewed and received wages in both cash and checks. One of them testified that her checks always reflected the proper deductions (and her name in fact appeared in the records that the state investigator submitted as an exhibit, contrary to his testimony). The other

testified that during her brief tenure her wages never had withholdings deducted. Defendant's office manager testified that she was aware he was paying three or four female employees "under the table."

Defendant denied that one of the other two employees about whom the state investigator testified had ever worked for him. He admitted that he never placed the teen employee on his payroll under her correct name. He also admitted issuing handwritten payroll checks from time to time for employees who were in need of cash. He claimed that he did not willfully fail to deduct the proper withholdings in these checks; it was simply a matter of sloppiness in accounting for them.

DISCUSSION

I. Sufficiency of Evidence

A. Contributing to the Delinquency of the Runaways

"Every person who . . . induces or endeavors to induce any person under the age of 18 years . . . to follow any course of conduct . . . as would cause or . . . tend to cause that person to become [a dependent or delinquent under the jurisdiction of the juvenile court] . . . is guilty of a misdemeanor" (Pen. Code, § 272, subd. (a)(1).) The trial court accordingly instructed the jury in connection with the runaways that "[t]o prove the [d]efendant is guilty of this crime, the People must prove that [he] by act or persuasion induced or tried to induce a minor to . . . follow any course of conduct that would cause or . . . tend to cause that person to become a delinquent child

of the juvenile court. . . . [¶] . . . [¶] A delinquent child is a minor who has violated curfew based solely on age. [(Welf. & Inst. Code, § 601, subd. (a).)]”

Defendant asserts the record lacks any evidence of the actual curfew in either Marysville (the location of defendant’s place of business and the fast-food restaurant) or Yuba City (the location of the football game, the park, and defendant’s home), or any evidence that the runaways were in a *public place* in Marysville between 11:00 p.m. and sunrise (see Marysville Mun. Code, tit. 9, § 9.40.020) or between the hours of 10:00 (now 11:00) p.m. and 5:00 a.m. in Yuba City (former Yuba City Mun. Code, tit. 4, ch. 8, § 5-8.01). (He also contends there is insufficient evidence that he *induced* the runaways to violate any curfew, but we do not need to resolve this claim.)

The People concede “[t]here is merit to this claim.” They admit “[a]t trial, there was no evidence of a curfew” and “[n]o evidence of a curfew was argued in closing.”

We shall accept the People’s concession. We therefore will reverse the convictions in counts XIII and XIV and direct the trial court to dismiss them. (*People v. Hatch* (2000) 22 Cal.4th 260, 271-272.)

B. Intent to Conceal the Runaways from Their Parents

Defendant argues that while the evidence demonstrated his awareness that the girls were runaways, it was insufficient to demonstrate his intent to conceal them from their parents, as he repeatedly encouraged them to call their parents. His reading

of the evidence is not in accord with the requirement that we must evaluate its sufficiency in a manner favorable to the judgment. (*People v. Mack* (1992) 11 Cal.App.4th 1466, 1468.)

Crediting the testimony of the runaways, defendant gave them an invitation to stay at his home, unbeknownst to his wife, at a time that he knew at least one of their mothers was trying to find them. He did not inform this mother of the location of her daughter until just after the police had located the runaways and contacted the parents. This is sufficient to demonstrate his intentional participation in the girls' concealment of themselves from their parents. We accordingly reject his claim of error.

C. Annoying the Teenage Employee

As noted above, the annoyance conviction was premised on text messages defendant exchanged with his teenage employee between August and November 2007. The indictment was filed on October 1, 2008. Defendant concedes that a jury evaluating the overall evidence "could conclude that [he] had violated the statute." He argues, however, that the evidence of texts *within the one-year statute of limitations* demonstrated only that the 43-year-old defendant was professing his amorous attraction to the 17-year-old victim, which is not an act that would unhesitatingly irritate a reasonable person as is required to support a conviction. (*People v. Carskaddon* (1957) 49 Cal.2d 423, 426.) Whatever the merits to defendant's assessment of the acceptability of his attentions toward the minor, the flaw in

defendant's argument (and the response of the People to it) is a failure to take into account that his acts were a *continuing course of conduct* with the teenage employee, for which reason we asked the parties for additional letter briefing on the issue.

The limitations period for a continuing offense does not begin to run until the *entire course of conduct* is complete. (*People v. Terry* (2005) 127 Cal.App.4th 750, 763.) Whether a series of acts constitute a continuing offense is a question of statutory interpretation, taking into account likely legislative intent in light of the nature of the crime. (*Ibid.*) In the context of deciding if a unanimity instruction was necessary, *People v. Moore* (1986) 185 Cal.App.3d 1005, 1013-1015 held that child annoyance is such an offense. The People now adopt this as their response to defendant's argument.

Conceding that a continuing course of conduct keeps the limitations period from barring prosecution for an offense if any of the individual acts constituting it are timely, defendant nonetheless asserts this is irrelevant to "what evidence the jury should be able to hear to support a particular charge." As he frankly admits, however, he cannot find any authority for excluding evidence of the individual acts in a course of conduct that would have been time-barred on their own, and we cannot conceive of any cogent reason to do so. We thus reject his claim of insufficient evidence, given his concession that the course of conduct *as a whole* was sufficient to convict him.

In light of this resolution, we reject his suggestion that it was misconduct for the prosecution to submit evidence of the texts that he claims were outside the statute of limitations and to rely on them emphatically in closing argument. By the same token, trial counsel was not ineffective in failing to object to the admission of this evidence, or to the argument of the prosecutor that emphasized it.

II. UIC Convictions

A. Subject Matter Jurisdiction

Defendant contends (in essence) that the existence of an administrative forum in which to recover his unpaid obligations under the UIC divested the trial court of jurisdiction in the first instance to prosecute him criminally. He cites general principles pertinent to exhaustion of administrative remedies, a fundamental jurisdictional tenet that exists to prevent a court's interference with the subject matter jurisdiction of another tribunal. (*Hayward v. Henderson* (1979) 88 Cal.App.3d 64, 70.)⁵ However, he does not identify any case that applies the doctrine of exhaustion to divest the jurisdiction of a superior court over a *criminal* prosecution.

⁵ It is perhaps more accurate to characterize his argument as arising under the related (but distinct) doctrine of *primary jurisdiction*; issues of exhaustion arise where the remedy lies *initially* with the administrative agency, whereas a claim that is originally cognizable in a judicial forum might nonetheless be deferred to an administrative tribunal that has particular competence over the subject matter. (9 Witkin, Cal. Procedure (5th ed. 2008) Administrative Proceedings, § 126, pp. 1252-1253.)

This argument strays so far from the bounds of exhaustion jurisprudence that there does not appear to be authority that directly refutes it (nor have the People identified any). However, we note three vaguely analogous cases.

In the first case, an administrative agency was free to seek injunctive relief in court before exhausting the administrative process in which it was seeking to revoke real estate licenses; the case distinguished the exhaustion doctrine as "pertain[ing] to private persons seeking to invoke judicial action against a public official; here[,] a public official is seeking judicial action against private persons to end a violation of law," and noted the Legislature had not indicated it was necessary to have initial resort to the administrative process. (*People ex rel. Savage v. Los Angeles Trust Deed etc. Exchange* (1961) 190 Cal.App.2d 66, 77-78.)

The other two cases recognize the power of a district attorney (in *civil* enforcement proceedings) to initiate court proceedings against a party independent of any administrative action an agency might take against the same party. *Setliff Bros. Service v. Bureau of Automotive Repair* (1997) 53 Cal.App.4th 1491 flatly stated that "commencement of an administrative action to suspend or revoke a license does not restrain the authority of a district attorney to prosecute a[] [civil] action," pointing out "the administrative action and the civil action are two *separate legal proceedings* involving *separate agencies* seeking *separate but necessary relief*"; thus

it was not fundamentally unfair to have successive prosecutions. (*Setliff Bros.*, at pp. 1495-1496, italics added.) *Setliff Bros.* cited *People v. Casa Blanca Convalescent Homes, Inc.* (1984) 159 Cal.App.3d 509, which declined to apply equitable estoppel against a district attorney based on an administrative agency's conduct in overseeing a nursing home, concluding that the administrative agency "has no authority to bind the district attorney . . . in the enforcement of law. The enforcement of administrative regulations and the civil proceedings to compel the cessation of unlawful . . . practices are *two separate legal processes* involving *two separate, distinct law enforcement agencies*. . . . One branch of government [(executive)] may not prevent another from performing official acts required by law." (159 Cal.App.3d at p. 531, italics added.)

We think this sufficient to refute defendant's claim that "the State" or "the government" had any constraint on the forum or type of remedy it could initially seek against him. In any event, his lack of apposite authority forfeits the contention. (*People v. Oates* (2004) 32 Cal.4th 1048, 1068, fn. 10; *Imagistics Internat., Inc. v. Department of General Services* (2007) 150 Cal.App.4th 581, 591, fn. 8, 593.)

B. Failure to Pay Accrued Obligations

UIC section 2118.5 imposes criminal sanctions for failure to remit collected withholding taxes: "Any person [who must] collect, account for, and pay over any tax . . . required to be withheld[,] who willfully fails to collect or truthfully account

for and pay over the tax[,] . . . shall . . . be guilty of a felony"⁶ The indictment charged a "willful failure to pay over required tax" (boldface and uppercase omitted) in violation of this statute in count XVIII.

The special instruction on this count provided, in part, "Defendant is charged in Count XVIII with willful failure to pay over required tax, a violation of [UIC] Section 2118.5. [¶] To find the Defendant guilty of this count, the following must be proved: . . . two, the Defendant willfully and with the specific intent to evade division 6 taxes . . . *failed to file returns . . .* ; or three, the Defendant willfully and with the specific intent to evade taxes imposed under the [UIC] *made . . . a false . . . statement or supplied false . . . information.*" (Italics added.)

As defendant points out, the instruction required the jury to find only that defendant either failed to file or filed false *accountings* of required withholdings. The former is not an element even relevant to *this* statute, and the latter is insufficient of itself to establish a violation without the failure to pay over what had been collected without *also* requiring the jury to find the gist of the offense: a *willful failure to remit* the withheld taxes.

⁶ Although now located in division 1 (UIC, § 100 et seq.), which may explain the investigator's misstatement, the statute is derived from division 6 (UIC, § 13000 et seq.; see Stats. 1980, ch. 1007, § 64, p. 3228), which is concerned with the collection of withholding taxes (UIC, § 13020).

The People do not attempt to defend the instruction. They simply contend the error was harmless, because "the evidence was undisputed and in large part confirmed by [defendant]" and the evidence otherwise "does not rationally lead to a contrary finding with respect to the misinstruction."

People v. Flood (1998) 18 Cal.4th 470 (*Flood*) overturned California precedent to the contrary in holding that a failure to instruct on elements of an offense is subject to the traditional test for harmless error under the state Constitution, though the federal Constitution imposes a superseding standard: A reviewing court may find an instructional error that misdescribes or omits an element of an offense to be harmless beyond a reasonable doubt in light of the whole record except where the error results in a so-called structural error, such as misstating the burden of proof (which undermines every finding) or failing to instruct on substantially all of the elements of the offense. (*Flood*, at pp. 489-490, 502-503 & fn. 20.)

In the present case, the instructional error resulted in entirely removing the central element of the offense from the jury's consideration. This is akin to the failure to instruct on any element of robbery other than the need for a specific intent to deprive an owner permanently of property, which *People v. Cummings* (1993) 4 Cal.4th 1233, 1311-1312, 1315 (cited with approval in *Flood, supra*, 18 Cal.4th at p. 503, fn. 20, as an

example of structural error), found was not subject to harmless error analysis. As such, it is reversible per se.

In any event, we do not agree that the error was harmless *beyond a reasonable doubt*. This state of certainty on our part exists where the evidence is relatively uncontroverted and any reasonable juror would have found the omitted element to exist. (*Flood, supra*, 18 Cal.4th at pp. 501-502.) In connection with reminding the jury of the need to agree unanimously on the basis for the four UIC counts, defense counsel highlighted the first employee who testified her checks had the proper deductions and who in fact appeared in the investigator's records (the prosecutor did not even refer to this employee in his own closing argument as a basis for any of the UIC counts), and otherwise asserted that the prosecutor had left too many loose ends overall: "[W]ho are we talking about and for which time periods? . . . [T]he Prosecution hasn't put before you, I would argue, sufficient evidence of which people in which time periods and which taxes to justify a conviction for these tax counts." Defendant had contested the status of a second person as an employee during her brief time at his business. As for the teenage employee, defendant points out on appeal that the jury could reasonably find that he did not intentionally *fail* to remit the accrued obligations for her and instead merely caused them to be credited to the wrong account. Finally, although it was hardly compelling evidence, the jury may have given credence

to his testimony that defendant was at worst negligent rather than willful about his accounting failures.

All in all, this is not a record on which we are confident that this was nonprejudicial error on the issue of a willful failure to pay that defendant actively contested. We will therefore reverse the conviction on count XVIII for retrial if the prosecution so desires.

C. Failure to Account

As we have earlier noted, division 1 of the UIC is concerned with employer taxes for unemployment insurance and employment retraining, and the disability tax on employees. (UIC, §§ 976, 976.6, 984.) UIC section 2109 criminally penalizes any person who "willfully fails to submit . . . reports required by this division." UIC section 2117.5 is again derived from former division 6 relating to withholding taxes (Stats. 1980, ch. 1007, § 64, p. 3228), and sanctions "[a]ny person who . . . willfully fails to file any return . . . with intent to evade any tax imposed by this code" or files false information.

The indictment charged violations of the two statutes under counts XV and XVII, respectively, distinguishing the offenses as involving reports under divisions 1 and 6. The prosecutor—in four scant pages of closing argument—broached the entire subject of UIC violations apologetically, noting only that they were based on the failure to report and remit four types of taxes under divisions 1 and 6 of the UIC, so that the four counts were

premised on a failure to report and remit division 1 taxes and a failure to report and remit division 6 taxes. He tied these violations to the second employee paid under the table and the teen employee.

In connection with count XV and UIC section 2109, the instruction specifically described the reports as being required under division 1. For count XVII and UIC section 2117.5, however, the special instruction provided only that the jury must find wage payments to one or more employees for which "[d]efendant willfully failed to file the proper returns," without specifying that it was referring to returns required under division 6. Defendant argues the jury as a result could have convicted him on both counts based on the same conduct under division 1, rather than distinguishing between the types of report involved. The People again concede without any elaboration that the instruction for count XVII was erroneous, but contend it was harmless.

Here, we agree with the People. The evidence at trial does not reveal any active dispute on defendant's part over the *types* of reports he did not file, allowing the jury to distinguish in any way between the reports of division 1 taxes and division 6 taxes. His defenses, which we just summarized above, were aimed at the lack of a willful failure to file reports for the teen employee, and the nonemployee status of the other person. The issue as thus framed was simply an up-or-down decision for the jury and, had the jury credited either of these defenses, it

would not have found defendant guilty on *either* count. Further, the flaw in the division 6 instruction was more a matter of ambiguity than the omission of a material element, and the brief argument of the prosecutor clearly distinguished between the facts necessary for each verdict. Therefore, we believe beyond a reasonable doubt that a properly instructed jury would have convicted defendant under these counts (counts XV and XVII), and reject his argument to the contrary.

III. Penalty Assessments

In the circumstance of a defendant sentenced to prison, the abstract of judgment gives directions to carry out its provisions (*People v. Mitchell* (2001) 26 Cal.4th 181, 185; *In re Black* (1967) 66 Cal.2d 881, 889-890), and therefore it must summarize the judgment accurately (*People v. Zackery* (2007) 147 Cal.App.4th 380, 387-388; *People v. Sanchez* (1998) 64 Cal.App.4th 1329, 1332; *People v. Hong* (1998) 64 Cal.App.4th 1071, 1080). In *People v. High* (2004) 119 Cal.App.4th 1192, we recognized that "a detailed recitation of all the fees, fines, and penalties on the record may be tedious," but the law "does not authorize shortcuts"; thus an abstract of judgment must include a list of *each* fine, fee, and penalty with its statutory authorization, in order that a collections entity can fulfill its duty to collect and forward assessments to the appropriate agency. (119 Cal.App.4th at pp. 1200, 1201.)

While it is permissible for the oral rendition of judgment to refer collectively to an aggregate amount of a fine and the

various county-specific penalty assessments, this is true only where the trial court clerk assumes the responsibility for the specification of the breakdown in the court's minutes. (*People v. Sharret* (2011) 191 Cal.App.4th 859, 864.)

In the present case, the order granting probation serves the same purpose for the county's collections agency. Neither the probation report, the oral rendition of judgment, the order granting probation, nor the court's minutes reflect the breakdown of assessments that are specific to Yuba County. We therefore will direct the trial court to issue an amended order granting probation that expressly states the breakdown of amounts and statutory bases for the aggregate \$1,140 imposed in connection with the sex offender fee (Pen. Code, § 290.3) and its penalty assessments.

DISPOSITION

The convictions for contributing to the delinquency of the runaways (counts XIII and XIV) are reversed with directions to dismiss them. The conviction for failure to remit withholding taxes (count XVIII) is reversed; if the prosecution does not file a notice of intent to retry it within 30 days after the issuance of our remittitur, the trial court shall dismiss that count as well. The remaining convictions and order granting probation are affirmed. The trial court is directed to prepare an amended order granting probation that includes a breakdown of

the amounts and statutory bases of the penalty assessments on the sex offender fee.

BUTZ _____, J.

We concur:

BLEASE _____, Acting P. J.

DUARTE _____, J.