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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Placer)

THE PEOPLE,

Plaintiff and Respondent,

v.

PAUL THOMAS HEINTZ,

Defendant and Appellant.

C067798

(Super. Ct. No. 62088731)

A jury convicted defendant Paul Thomas Heintz of attempted murder (Pen. Code, §§ 664/187, subd. (a)¹ - count one) and found that he personally used a deadly and dangerous weapon, to wit, a knife (§ 12022, subd. (b)) and personally inflicted great bodily injury (§ 12022.7, subd. (a)). The jury concluded the attempted murder was not deliberate and premeditated. The jury also convicted defendant of assault with a deadly weapon (§ 245, subd. (a)(1) - count two) and found that he personally inflicted

¹ Undesignated statutory references are to the Penal Code.

great bodily injury in connection with this count as well (§ 12022.7, subd. (a)).

On March 11, 2011, the court sentenced defendant to state prison for an aggregate term of 11 years -- the midterm of seven years on count one plus a consecutive one-year term for the weapon enhancement and a consecutive three-year term for the great bodily injury enhancement. Sentence on count two was stayed.

Defendant filed his appeal on March 29, 2011, but on February 6, 2012, defendant, through counsel, filed a Notice of Abandonment of Appeal and Request for Dismissal. We presume defendant requests dismissal because subsequent to the completion of briefing, the California Supreme Court decided *People v. Ahmed* (2011) 53 Cal.4th 156, which resolved adverse to defendant the precise legal issue defendant raised in his appeal. Accordingly, we have no need to address that issue here.

However, we deny defendant's motion to dismiss the appeal because we note errors in the abstract of judgment. The abstract reflects that the great bodily injury enhancement was imposed on count two (A2), but the trial court imposed the great bodily injury enhancement in connection with count one (A1). Also, the abstract reflects that defendant's conduct credits were awarded pursuant to section 4019, but the trial court correctly awarded the conduct credits pursuant to section 2933.1. We will order the abstract corrected accordingly.

DISPOSITION

The trial court is directed to prepare a corrected abstract of judgment reflecting that the great bodily injury enhancement was imposed in connection with count one and that conduct credits were awarded pursuant to section 2933.1, and to forward a certified copy of the corrected abstract to the Department of Corrections and Rehabilitation. In light of our opinion, defendant's request for dismissal is denied as moot.

The judgment is affirmed.

MURRAY, J.

We concur:

RAYE, P. J.

DUARTE, J.