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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

WARREN CORDERO JORDAN,

Defendant and Appellant.

H037100

(Santa Clara County

Super. Ct. No. CC823875)

Defendant Warren Cordero Jordan appeals from a judgment of conviction entered after he pleaded guilty to six counts of second degree robbery (Pen. Code, §§ 211, 212.5, subd. (c)<sup>1</sup> - counts one, five, six, seven, eight, nine), one count of reckless driving while evading a police officer (Veh. Code, § 2800.2, subd. (a) - count two)), and two counts of attempted second degree robbery (§§ 664, 211, 212.5, subd. (c) - counts three, four). In connection with counts one, three, four, five, six, seven, eight, and nine, defendant admitted the allegations that he personally used a firearm (§ 12022.53, subd. (b)). In connection with counts one, five, six, seven, eight, and nine, defendant admitted that he committed the offenses for the benefit of a criminal street gang within the meaning of section 186.22, subdivision (b)(1)(C). Defendant also admitted that he committed the offenses charged in counts three and four for the benefit of a criminal street gang within

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<sup>1</sup> All further statutory references are to the Penal Code unless stated otherwise.

the meaning of section 186.22, subdivision (b)(1)(B). The trial court sentenced defendant to a total term of 27 years and four months in state prison. Defendant contends that the abstract of judgment must be modified to reflect the trial court's oral pronouncement of judgment. As modified, the judgment is affirmed.

## **I. Statement of Facts**

### **Counts One and Two**

On October 7, 2008, defendant and two codefendants robbed Thomas Pereappadan, who worked at Clyde's Liquor Store. Defendant, who was armed with a machine gun, took money from the cash register. Defendant also took the victim's wallet and cell phone.

The police responded to the robbery and pursued defendants' vehicle. After a high speed chase, defendants hit a parked car and exited their vehicle. The police did not apprehend them.

### **Counts Three and Four**

On October 5, 2008, defendant and two codefendants attempted to rob Maria Villalobos and Maribel Rodriguez, who worked at Sylvan Liquors. Defendant was armed with a machine gun. After one of the victims attempted to call the police with her cell phone, defendants fled without taking any money or merchandise.

### **Count Five**

On October 5, 2008, defendant and an unknown codefendant robbed Amawjeet Singh, who was a cashier at K.P. Liquor Store. Defendant was carrying a machine gun. Defendant took money from the cash register and fled.

### **Counts Six and Seven**

On September 27, 2008, defendant and two unknown codefendants robbed Navinder Singh, who was an employee at the 7 To Midnight Market, and his friend

Bahadur Singh. Defendant was armed with a machine gun. Defendant and the codefendants took approximately \$7,500 from the cash register.

### **Counts Eight and Nine**

On September 26, 2008, defendant and an unknown codefendant robbed Pargat Singh Manik and Baljit Manik at the Manik Food and Liquor Store. Defendant was armed with a machine gun. Defendant and the codefendant fled with approximately \$3,700 from the store.

### **Defendant's Statements**

Defendant was arrested on December 19, 2008. Defendant admitted that he had participated in the robbery at Clyde's Liquor Store and that he had been armed with a .22 caliber machine gun. The police identified defendant as a member of the East Palo Alto Taliban gang.

## **II. Discussion**

Defendant contends, and the Attorney General agrees, that the abstract of judgment must be modified.

Defendant pleaded guilty to attempted second degree robbery as charged in count four in the information. He also admitted the gun use (§ 12022.53, subd. (b)) and gang (§ 186.22, subd. (b)(1)(B)) enhancement allegations in connection with this count.

At the sentencing hearing, the trial court imposed a term of two years on count four. The trial court then imposed a 10-year enhancement on the gun use allegation and a five-year enhancement on the gang allegation in connection with this count. The trial court ordered that the 17-year term on count four would run concurrent with the terms imposed on counts one and five. However, the abstract of judgment incorrectly states that the trial court imposed a concurrent 10-year gang enhancement allegation on count four pursuant to section 186.22, subdivision (b)(1)(C).

Since the trial court's oral pronouncement of sentence controls over the abstract of judgment (*People v. Mitchell* (2001) 26 Cal.4th 181, 185-186), the abstract of judgment must be modified.

### **III. Disposition**

The judgment is modified to reflect that the trial court imposed a concurrent five-year gang enhancement allegation on count four pursuant to section 186.22, subdivision (b)(1)(B). The trial court is directed to prepare an amended abstract of judgment and forward a certified copy to the Department of Corrections. As modified, the judgment is affirmed.

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Mihara, J.

WE CONCUR:

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Premo, Acting P. J.

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Márquez, J.