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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

ANGEL JESUS TORRES,

Defendant and Appellant.

H038162

(Santa Clara County

Super. Ct. No. C1079816)

Defendant Angel Jesus Torres pleaded no contest to 11 felony counts and admitted certain allegations for purposes of sentencing enhancements and the Three Strikes law. The trial court sentenced him to 15 years and eight months in prison. On appeal, defendant contends that the trial court erred in sentencing him on count 11 to 32 months rather than 16 months. The People concede the issue, and we agree that the concession is appropriate. We therefore modify and affirm the judgment.

BACKGROUND

The trial court imposed a principal lower term of two years for robbery, doubled to four years under the Three Strikes law, and consecutive and concurrent subordinate terms thereafter. For count 11, a violation of former Penal Code section 12021 (possession of a firearm by certain persons), the trial court imposed a consecutive lower-term sentence of 16 months and doubled the term to 32 months.

DISCUSSION

Subordinate terms are one-third the middle term unless some other provision of law allows a full term. (Pen. Code, § 1170.1.) No provision of law allows a full subordinate term for a violation of former Penal Code section 12021. The middle term for a violation of former Penal Code section 12021 is 24 months. One third of the middle term is eight months--doubled the term is 16 months.

DISPOSITION

The judgment is modified so that the sentence for count 11, violation of former Penal Code section 12021, is 16 months. As so modified, the judgment is affirmed.

Premo, Acting P.J.

WE CONCUR:

Mihara, J.

Márquez, J.