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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSUE BLANCO MALDONADO,

Defendant and Appellant.

B263190

(Los Angeles County  
Super. Ct. No. PA078017)

APPEAL from an order of the Superior Court of  
Los Angeles County, David Stuart, Judge. Affirmed as modified.

Rachel Varnell, under appointment by the Court of Appeal,  
for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler,  
Chief Assistant Attorney General, Lance E. Winters, Senior  
Assistant Attorney General, Victoria B Wilson and Chung L.  
Mar, Deputy Attorneys General, for Plaintiff and Respondent.

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A jury convicted Josue Maldonado of kidnapping to commit robbery (Pen. Code, § 209, subd. (b)(1), count 1),<sup>1</sup> attempted first degree robbery (§§ 211, 664, count 2), second degree robbery (§ 211, count 3), making a criminal threat (§ 422, count 4), assault with a firearm (§ 245, subd. (a)(2), count 5), and false imprisonment effected by violence (§§ 236, 237, subd. (a), count 6). The jury also found true the allegation that Maldonado personally used a firearm during the commission of felonies, within the meaning of sections 12022.53, subdivision (b) (counts 1-3), and 12022.5, subdivision (c) (counts 4-6).

The trial court sentenced Maldonado to life imprisonment with the possibility of parole on count 1, plus 10 years for the firearm use enhancement. On counts 2, 3, and 4, the court imposed the low terms of three years, two years, and 16 months, respectively, and stayed execution of those sentences pursuant to section 654. On count 5, the trial court imposed a consecutive term of the middle term of three years, plus the middle term of four years for the firearm use enhancement, and on count 6 the court imposed a consecutive term of eight months (one-third the middle term of two years), plus three years four months (one-third the upper term of 10 years) for the firearm use enhancement.

Maldonado contends, and the People concede, that the trial court erred in imposing and staying execution of the lower term on count 2, attempted first degree robbery. The punishment for robbery in the first degree is three, four, or six years. (§ 213, subd. (a)(1)(B).) The punishment for attempted robbery of the second degree is 18 months, two years, or three years. (See § 664;

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<sup>1</sup> Statutory references are to the Penal Code.

*People v. Cantrell* (2009) 175 Cal.App.4th 1161, 1164 [“the correct sentence for the low term [for attempted robbery is] 18 months”].) Therefore, the court erred in stating the lower term for attempted first degree robbery was three years instead of 18 months.

The judgment is modified to impose a term of 18 months on count 2, stayed pursuant to section 654. In all other respects, the judgment is affirmed. The trial court is to prepare a corrected abstract of judgment and to forward a copy to the Department of Corrections and Rehabilitation.

SEGAL, J.

We concur:

PERLUSS, P. J.

ZELON, J.