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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE, Plaintiff and Respondent, v. PAKI JOHN BRONSON, Defendant and Appellant.	B234085 (Los Angeles County Super. Ct. Nos. TA116671; BA341632)

APPEAL from a judgment of the Superior Court of Los Angeles County, Gary E. Daigh, Judge. Affirmed.

Tanya Dellaca, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Steven D. Matthews and Timothy M. Weiner, Deputy Attorneys General, for Plaintiff and Respondent.

Paki John Bronson appeals the judgment entered after he was convicted by a jury of corporal injury to a former cohabitant, vandalism, making criminal threats, stalking, burglary, aggravated assault and dissuading a witness from testifying in court. Bronson contends the trial court erroneously admitted evidence of uncharged prior incidents of domestic violence without considering whether they were unduly prejudicial under Evidence Code section 352. He also challenges the court's jury instructions and aspects of his sentence. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. *The Information*

Bronson was charged in an information filed on March 11, 2011 with corporal injury to a former cohabitant (Pen. Code, § 273.5, subd. (a))[1] (count 1), felony vandalism (§ 594, subd. (a)) (count 2), making criminal threats (§ 422) (counts 3, 7 & 8), first degree burglary (§ 459) (count 4), assault by means likely to produce great bodily injury (former § 245, subd. (a)(1))[2] (count 5), stalking (§ 646.9, subd. (a)) (count 6) and dissuading a witness from testifying (§ 136.1, subd. (a)(1)) (count 9). Bronson pleaded not guilty to all charges.

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1 Statutory references are to the Penal Code unless otherwise indicated.

2 At the time of the offenses charged and Bronson's trial, former Penal Code section 245, subdivision (a)(1), provided, "Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury, shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year . . . ." (Stats. 2004, ch. 494, § 1, p. 4040.) Effective January 1, 2012 former subdivision (a)(1) of section 245 was divided into two separate and distinct subdivisions: section 245, subdivision (a)(1), now prohibits assault with a deadly weapon or instrument other than a firearm, and new subdivision (a)(4) prohibits assault by means of force likely to produce great bodily injury. (Stats. 2011, ch. 183, § 1.) According to the Report of the Assembly Committee on Public Safety, the purpose of this change was to permit a more efficient assessment of a defendant's prior criminal history since an assault with a deadly weapon qualifies as a "serious felony" (see Pen. Code, § 1192.7, subd. (c)(1)), while an assault by force likely to produce great bodily injury does not. (Assem. Com. on Pub. Safety, Analysis of Assem. Bill No. 1026 (2011-2012 Reg. Sess.) as introduced Feb. 11, 2011; see *People v. Brown* (2012) 210 Cal.App.4th 1, 5, fn. 1.)

2. *The Trial*

Christyl Hooks was Bronson's girlfriend for nearly six years. The couple lived together until Hooks ended the relationship in May 2009 after she could no longer tolerate Bronson's abuse. According to the evidence at trial, Bronson, who was having difficulty accepting the break-up, harassed, stalked, assaulted and threatened Hooks for more than two years after their relationship ended.

a. *Count 1* (*corporal injury to a former cohabitant*), *count 2* (*vandalism*) *and count 3* (*making criminal threats to Hooks*)

On October 24, 2010 Hooks was at a party with friends. As she left the party to drive home, she saw Bronson crouched near the driver's side tire of her parked car holding a silver object. She noticed all four of her tires had been slashed. Hooks screamed at Bronson, who hit her in the face, pulled her hair and dragged her as she tried to hang on to a gate. Hooks sustained scratches on her face and bruises and scrapes on her arms but did not seek medical attention.

While Hooks drove home on flat tires, Bronson followed her, screaming that she could not hide from him and warning her he was "going to fuck you up." Hooks was scared because Bronson had hit her on previous occasions; she understood his statement as yet another threat of physical violence; and she believed Bronson would follow through on his threat.

b. *Count 4* (*burglary*)

In May 2009 Hooks was home alone when her telephone started ringing "off the hook." According to Hooks, Bronson had moved out of the apartment earlier that month and no longer kept his belongings there. As soon as she unplugged her telephone and turned off all the lights, Bronson began banging on the living room door demanding to be let inside. When Hooks refused to open the door, Bronson forced his way in through her bedroom window. As Hooks heard Bronson enter her home, she grabbed her purse and ran to a nearby alley. Bronson followed, screaming, "You fucking bitch. . . . I want to talk to you." Hooks ran behind a trash can. After Bronson found her, she rolled her body into a ball to protect herself from Bronson's blows. Bronson hit her, pulled her up off the

ground and yelled, "I'm going to fuck you up. Get your stupid ass up. Look at what you're doing to me . . . . I want to talk to you." The People argued at trial Bronson had entered the apartment with the intent to threaten Hooks or assault her.

c. *Count 5* (*assault by means likely to cause great bodily injury*)

During an argument in January 2009, Bronson put his hands around Hooks's neck and choked her hard. Hooks could not breathe and thought she was going to die. She escaped from Bronson's grip and ran to the kitchen where she found a corkscrew and stabbed Bronson twice in the arm to stop his attack.

d. *Count 6* (*stalking from June 1, 2009 through February 11, 2011*)

While Hooks was living alone in her apartment in Gardena from May 2009 through October 2009, Bronson called her cell phone incessantly, banged on her apartment window and showed up at her workplace numerous times threatening to "fuck her up." Each time Bronson demanded that Hooks talk to him and would not leave until she called the police.

After Hooks moved to her mother's apartment in November 2009, Bronson repeatedly came to their home threatening to hurt Hooks unless she spoke with him. Bronson called Hooks incessantly at home and at work, disrupting the office. Bronson told Hooks during at least one of these calls he was "watching her" and he would "fuck her up" if he found her with someone else.

During this period, Bronson also appeared at her friends' homes where she was visiting, demanding to speak with Hooks and threatening her safety. On at least one occasion he followed Hooks and her date in his car, screaming at them and threatening to hurt her.

In February 2011, after Bronson was released from jail on bail following his arrest on these offenses, he called Hooks telling her, "Bitch, I got out of jail. They fucking can't keep me. I told you, and I'm fucking going to get you, and you can't keep parking your car by that camera on your job. And I'm going to get you, bitch. So you need to watch yourself when you leave your job." He told Hooks he was going to kill her.

e. *Counts 7 and 8* (*making criminal threats to Valery Coleman*)

In April or May 2010 Bronson followed Hooks to her mother's house where Hooks was still living. Hooks's mother, Valery Coleman, called the police. While Hooks fled, Coleman used her truck to block Bronson's escape so he would be forced to wait at the home until police arrived. Bronson told Coleman he would "fuck Hooks up" unless she (Coleman) moved her truck and allowed him to leave. Coleman testified she took the threat seriously, believing Bronson would immediately harm Hooks. (Count 7.)

In late 2009 when Hooks was moving out of her apartment in Gardena, she called her mother to come pick her up because Bronson was there and she was afraid. Later, at 3:00 in the morning, Bronson went to Coleman's apartment, kicked and hit the door and window and yelled that he knew Hooks was inside and he was going to "fuck you all up." (Count 8.)

f. *Count 9* (*dissuading a witness*)

In November 2010 Bronson, along with his friend, Christy, called Hooks at work numerous times, telling her she better not go to court or they would "fuck her up." When Christy called on her own, she indicated she was calling on behalf of Bronson. Christy told Hooks, "Don't go to court bitch. If you do, we will do what we did to you before," referring to an earlier incident when Christy and another woman had attacked Hooks and vandalized her car while Bronson watched.

g. *Bronson's testimony*

Bronson testified on his own behalf, offering a very different version of events. Bronson denied ever hitting or threatening Hooks, explaining on each occasion she described he had just had wanted to talk to her. He acknowledged attempting to call Hooks repeatedly, sometimes 20 times a day, between December 2010 and February 9, 2011 while he was in custody because he did not understand why she was lying about him and "trying to put him in jail." Bronson denied slashing Hooks's tires or attacking her on October 24, 2010, claiming he was at a club in Hollywood at that time. He maintained he was still living with Hooks at their apartment in Gardena in May 2009 at the time he entered through the bedroom window. He wanted to collect some of his

things and to talk to Hooks. Bronson admitted he had had Christy call Hooks on his behalf while he was in custody, but only to find out why she was lying about him, not to threaten her. He admitted telling Christy in a recorded telephone conversation while he was in custody that he wanted "some box-cutter action on that bitch," but explained the comment referred to a desire to slash Hooks's tires because he was angry with her, not to slash her face. Bronson also described Hooks as the aggressor in all of their altercations.

3. *The Verdict and Sentence*

The jury acquitted Bronson on one of the two counts of making a criminal threat to Coleman and found him guilty on all other charges. Bronson was sentenced to an aggregate state prison term of 11 years four months.[3]

DISCUSSION

1. *The Trial Court Properly Admitted Evidence of Uncharged Incidents of Domestic Violence*

a. *The uncharged incidents of domestic violence*

Pursuant to Evidence Code section 1109,[4] the People introduced evidence of three uncharged incidents of domestic violence: In June 2008, after Hooks refused to answer his calls, Bronson arrived at a nail salon Hooks was patronizing, took her purse from her with her cell phone, dragged her by the hair out of the salon and hit and shoved her in

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3 Bronson was sentenced to the upper term of six years for burglary plus consecutive sentences of one third the middle term for each of the remaining offenses. Bronson, who was on probation for a May 2008 conviction for selling marijuana at the time of the current offenses, was also given a concurrent eight-month sentence for violating his probation.

4 Evidence Code section 1109, subdivision (a)(1), provides in part, "[I]n a criminal action in which the defendant is accused of an offense involving domestic violence, evidence of the defendant's commission of other domestic violence is not made inadmissible by Section 1101 if the evidence is not inadmissible pursuant to Section 352."

Evidence Code section 352 provides, "The court in its discretion may exclude evidence if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or misleading the jury."

front of her young niece. Although police were called, Hooks did not press charges because she was too embarrassed about the abuse.

In February 2008 Bronson chased Hooks as she fled from her mother's house to get away from him. Fearing he was going to hurt her, Hooks called the police and, pursuant to the dispatcher's instructions, drove to the nearest police station and reported the incident.

In February 2011, after Hooks testified at the preliminary hearing in this case, Bronson addressed Hooks as she was returning to her seat from the witness stand and told her in front of other witnesses, "I'll fuck you up."

b. *The trial court expressly ruled the evidence of uncharged incidents of domestic violence was admissible under Evidence Code 352*

Bronson contends the trial court erred in admitting these incidents without weighing their potential for prejudice as required under Evidence Code sections 1109 and 352. The record shows otherwise. At an Evidence Code section 402 hearing, the trial court expressly weighed the probative value and potential for prejudice of each instance of uncharged domestic violence and ruled the incidents were not unduly prejudicial under Evidence Code section 352.[5]

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5 Referring to the prior incidents and their admissibility under Evidence Code section 1109, the court stated, "I guess the issue is under [Evidence Code section] 352 why would it be excluded[?] What is the prejudice?" After hearing argument from Bronson's counsel, the court ruled the incidents were admissible under Evidence Code section 1109 and not subject to exclusion under Evidence Code section 352.

Bronson's challenge is limited to the court's failure to conduct an Evidence Code section 352 analysis. He does not contend the court's ruling was an abuse of the court's broad discretion in such matters. (See, e.g., *People v. Brown* (2011) 192 Cal.App.4th 1222, 1233 [court "enjoys broad discretion" in determining whether the probative value of prior incidents of domestic violence is outweighed by the probability the evidence will create a substantial danger of undue prejudice; "the court's exercise of discretion will not be disturbed on appeal except upon a showing that it was exercised in an arbitrary, capricious, or patently absurd manner that resulted in a manifest miscarriage of justice"].) Accordingly, we do not consider that issue.

2. *Bronson Has Forfeited His Objection to Evidence of Other Uncharged Incidents of Domestic Violence by Failing To Identify and Object to Them at Trial and Has Not Demonstrated the Failure To Object Was the Result of Ineffective Assistance of Counsel*

Bronson argues several incidents of uncharged domestic violence were admitted into evidence that were not considered at the Evidence Code section 402 hearing. Because Bronson did not make this objection at trial, it has been forfeited. (*People v. Partida* (2005) 37 Cal.4th 428, 434; *People v. Romero* (2008) 44 Cal.4th 386, 411 [“‘“[a]s a general rule, ‘the failure to object to errors committed at trial relieves the reviewing court of the obligation to consider those errors on appeal”’”].)

To escape the forfeiture doctrine, Bronson contends his counsel was constitutionally ineffective in failing to object to this evidence of prior uncharged incidents of domestic violence. “‘To establish ineffective assistance of counsel under either the federal or state guarantee, a defendant must show that counsel’s representation fell below an objective standard of reasonableness under prevailing professional norms, and that counsel’s deficient performance was prejudicial, i.e., that a reasonable probability exists that, but for counsel’s failings, the result would have been more favorable to the defendant.’” (See *In re Roberts* (2003) 29 Cal.4th 726, 744-745; *Strickland v. Washington* (1984) 466 U.S. 668, 694 [104 S.Ct. 2052, 80 L.Ed.2d 674] [same].)

Bronson fails to identify any specific testimony he asserts his trial counsel should have challenged. Because this failure prevents us from meaningfully reviewing the contention, we do not consider it. (See *Mansell v. Board of Administration* (1994) 30 Cal.App.4th 539, 545 [failure to cite to the record as required by Cal. Rules of Court, rule 8.204(a)(1)(C), makes the job of the reviewing court unduly burdensome; appellate court is “not required to search the record” to determine whether contains support for a party’s contentions on appeal]; *Paterno v. State of California* (1999) 74 Cal.App.4th 68, 106 [reviewing court is “not required to examine undeveloped claims[] [or] make

arguments for parties"].)[6] Moreover, as is often the case, the record is silent as to the reasons for his counsel's failure to object to any of the proffered testimony, thus precluding any finding trial counsel's actions were constitutionally deficient. (See *People v. Mendoza Tello* (1997) 15 Cal.4th 264, 266 [because record is often silent as to counsel's reasons for failing to object and there could be a plethora of possible tactical reasons, ineffective assistance of counsel claims are generally more appropriately litigated in habeas corpus proceedings where matters outside the four concerns of the record may be considered].)

3. *The Court Did Not Err in Instructing the Jury with CALCRIM No. 207*

The trial court instructed the jury, in accordance with CALCRIM No. 207, the charged offenses took place "on or about" a specific date, and "the People are not required to prove that the crimes took place exactly on those days but only that they happened reasonably close to those days."[7] Bronson contends the court erred in giving this instruction as to counts 1 through 5 because there was no dispute as to the precise date each of those offense were alleged to have occurred—October 24, 2010 (counts 1, 2 and 3), May 26, 2009 (count 4) and January 27, 2009 (count 5)—and the error was prejudicial because it unconstitutionally permitted the jury to find Bronson guilty of an uncharged offense. He also claims the instruction was particularly inappropriate for the

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6 Following his statement that many additional incidents of uncharged domestic violence were admitted into evidence without objection, Bronson cites generally to pages 629 to 633 of the reporter's transcript. Those pages contain only general testimony by Hooks that she began dating Bronson in 2006 and he had become "verbally abusive" by 2007. No specific instances of domestic violence are mentioned.

7 The jury was instructed, "It is alleged that the crimes of corporal injury to a former cohabitant, vandalism over $400 and [making] criminal threats, as charged in counts 1, 2 and 3, consecutively, occurred on or about October 24, 2010; that the crime of first degree burglary, person present, as charged in count 4, occurred on or about May 26, 2009; that the crime of assault by means likely to produce great bodily injury, as charged in count 5, occurred on or about January 27, 2009. . . . The People are not required to prove that the crimes took place exactly on those days but only that they happened reasonably close to those days."

October 24, 2010 offenses (counts 1 through 3) because he presented an alibi (his testimony that he was at a nightclub) for that date.[8]

Ordinarily, the People need not plead the exact time of commission of an alleged offense. (§ 995.) However, "when the prosecution's proof establishes the offense occurred on a particular day to the exclusion of other dates, and when the defense is alibi (or lack of opportunity), it is improper to give the jury an instruction using the 'on or about' language." (*People v. Jennings* (1991) 53 Cal.3d 334, 359; accord, *People v. Richardson* (2008) 43 Cal.4th 959, 1027 (*Richardson*).) When the defense is one of alibi or lack of opportunity, "'[a]n instruction [that] deflects the jury's attention from temporal detail may unconstitutionally impede the defense.'" (*Richardson,* at p. 1027; accord, *People v. Barney* (1983) 143 Cal.App.3d 490, 497.) The instruction may also be improper when there are numerous, similar uncharged offenses that occurred within the same time period. (*People v. Gavin* (1971) 21 Cal.App.3d 408, 418-419 ["on or about" instruction was confusing and misleading because the defense was based on defendant's conduct on October 24, and instruction permitted conviction on a similar, uncharged offense on September 26].)

When reviewing the merits of a claim of instructional error, """we inquire 'whether there is a reasonable likelihood that the jury has applied the challenged instruction in a way' that violates the Constitution." [Citation.] In conducting this inquiry, we are mindful "'a single instruction to a jury may not be judged in artificial

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8 The People urge us not to consider the contention because Bronson did not object to the instruction at trial and thus has forfeited it. We have repeatedly rejected this forfeiture argument, which appears to have been made more reflexively than reflectively. We review any claim of instructional error that affects a defendant's substantial rights whether or not trial counsel objected. (§ 1259 ["[t]he appellate court may also review any instruction given . . . even though no objection was made thereto in the lower court, if the substantial rights of the defendant were affected thereby"]; *People v. Hudson* (2006) 38 Cal.4th 1002, 1011-1012; *People v. Smithey* (1999) 20 Cal.4th 936, 976, fn. 7.) Whether the defendant's substantial rights were affected, however, can only be determined by deciding if the instruction as given was flawed and, if so, whether the error was prejudicial. That is, if Bronson's claim has merit, it has not been forfeited. Thus, we must necessarily review the merits of his contention there was instructional error.

isolation, but must be viewed in the context of the overall charge.'"'" (*People v. Richardson, supra,* 43 Cal.4th at p. 1028.) "'Additionally, we must assume that jurors are intelligent persons and capable of understanding and correlating all jury instructions which are given.'" (*Ibid.*)

Here, considering the state of the evidence and the instructions as a whole, we find no reasonable likelihood of an impermissible application of CALCRIM No. 207. The jury was instructed in accordance with CALCRIM No. 852 that the uncharged incidents of domestic violence in this case occurred on or about February 16, 2008, June 20, 2008 and February 25, 2011, nowhere near the dates alleged for counts 1 through 5. Thus, it is not reasonably likely the jury convicted Bronson based on the facts of the uncharged offenses.

Similarly, it is not reasonably likely the instruction deflected the jury's attention from Bronson's alibi defense for October 24, 2010 (counts 1 through 3), which he supported only by his own testimony that he was at a club the night Hooks claimed he attacked and threatened her. Contrary to Bronson's contention, there was sufficient temporal ambiguity in the evidence to justify the instruction as to counts 1 through 3—Hooks testified the offenses alleged in those counts occurred "about a month" after September 26, 2010—and Bronson's alibi was far from firm. In any event, during closing argument the prosecutor expressly identified October 24, 2010 as the date the offenses charged in counts 1 through 3 occurred. Under those circumstances, the "on or about" language of CALCRIM No. 207 was effectively rendered irrelevant. (See *Richardson, supra,* 43 Cal.4th at p. 1028 [no error in giving "on or about" instruction where defendant's alibi was not "firm" and there was some temporal ambiguity in the evidence as to when offense took place; "the prosecution's subsequent election during argument of a specific time period . . . did not render the instruction erroneous so much as irrelevant"].)

4. *The Trial Court's Instructions on the Offense of Making Criminal Threats Did Not Mislead the Jury*

Section 422 makes it a crime, under specific circumstances, to threaten another person with a criminal act that will result in death or great bodily injury to the person to whom the threat is communicated or to that person's immediate family member.[9] The trial court instructed the jury in accordance with CALCRIM No. 1300 on the offenses of making criminal threats: "The defendant is charged in Counts 3, 7 and 8 with having made a criminal threat in violation of Penal Code section 422. [¶] To prove that the defendant is guilty of this crime, the People must prove that: [¶] 1. The defendant willfully threatened to unlawfully kill or unlawfully cause great bodily injury to Christyl H. in Counts 3 & 7 and Valery Coleman in Count 8; [¶] 2. The defendant made the threat orally; [¶] 3. The defendant intended that his statement be understood as a threat; [¶] 4. The threat was so clear, immediate, unconditional, and specific that it communicated to Christyl H. and to Valery Coleman a serious intention and the immediate prospect that the threat would be carried out; [¶] 5. The threat actually caused Christyl H. and Valery Coleman to be in sustained fear for her own safety or for the safety of her immediate family; AND [¶] 6. Christyl H.'s fear and Valery Coleman's fear was reasonable under the circumstances. . . ."

Bronson contends the instruction was confusing because, without separately identifying which of the two women was the victim in each count, that is, the person to whom the threat was communicated, the instruction unlawfully permitted the jury to

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9 Section 422, subdivision (a), provides, "Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison."

convict Bronson of making a criminal threat directly to Hooks rather than to Coleman in count 7.[10] While the instruction might be susceptible to the interpretation Bronson advances if considered in isolation, jury instructions must be considered in light of the entire record to determine whether it is reasonably likely the jury was misled. (*People v. Cross* (2008) 45 Cal.4th 58, 67-68; *People v. Hernandez* (2010) 183 Cal.App.4th 1327, 1332.) Here, when considered in light of the entire record, it is not reasonably likely the jury would have interpreted the instruction in the manner Bronson suggests. The evidence in support of count 7, which was highlighted by the prosecutor during closing argument, was that Bronson made the threat to Coleman after Hooks had left the scene. He told Coleman that he would "fuck Hooks up" unless Coleman immediately moved her car that was blocking him from following Hooks. This is not a case, therefore, where the evidence relating to count 7 allowed for two possible victims. In any event, the verdict forms provided to the jury specifically identified the particular victim for each count, thus making absolutely clear that Hooks was the victim in count 3 while Coleman was the victim in count 7. There was no instructional error. (See *People v. Hughes* (2002) 27 Cal.4th 287, 377 [court evaluated instructions read together with verdict form to reject defendant's contention language in instructions was misleading or confusing].)[11]

5. *Bronson's Sentence Does Not Violate Section 654*

Section 654 prohibits punishment for two or more offenses arising from the same act or from a series of acts constituting an indivisible course of conduct. (*People v. Lewis* (2008) 43 Cal.4th 415, 419; *People v. Latimer* (1993) 5 Cal.4th 1203, 1216.)[12] Whether a

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10 For the reasons stated in footnote 8, *above*, we reject the People's contention the argument has been forfeited for lack of objection at trial.

11 Of course, by telling the jury that Bronson was accused in count 7 of willfully threatening to cause great bodily injury to Hooks, the instruction properly informed the jury that the offense of making criminal threats can be committed by threatening violence to a person's immediate family member.

12 Section 654, subdivision (a), provides, "An act or omission that is punishable in different ways by different provisions of law shall be punished under the provision that provides for the longest potential term of imprisonment, but in no case shall the act or

course of criminal conduct is divisible and therefore gives rise to more than one act within the meaning of section 654 depends of the intent and objective of the actor. If all of the offenses were incident to one objective, the defendant may be punished for any one of the offenses but not more than one. (*People v. Correa* (2012) 54 Cal.4th 331, 336.)

Generally, the trial court has broad discretion in determining whether a defendant had multiple criminal objectives independent of, and not merely incidental to, each other for purposes of section 654. On appeal we will uphold the court's express or implied finding a defendant held multiple criminal objectives if it is supported by substantial evidence. (*People v. Osband* (1996) 13 Cal.4th 622, 730-731; *People v. Blake* (1998) 68 Cal.App.4th 509, 512.)

Bronson contends his sentences on counts 1 (corporal injury to a former cohabitant), 2 (vandalism) and 3 (making criminal threats) should have been stayed under section 654 because each of those offenses, committed on October 24, 2010, was part of the same course of conduct that comprised the stalking offense in count 6. The record in this case fully supports the trial court's sentencing decision.

Bronson's acts of criminal vandalism and corporal injury to a former cohabitant (counts 1 and 2) are wholly separate from the stalking offense with independent objectives and separate intentions. Plainly, one need not inflict physical harm on another person or damage her property to stalk a victim. (See *People v. Ewing* (1999) 76 Cal.App.4th 199, 210 [elements of stalking are the (1) willful, malicious and repeated harassment of another person and (2) making a credible threat (3) with the intent to place that person in reasonable fear for his or her safety or the safety of his or her immediate family]; § 646.9.)

As for count 3's charge of making a criminal threat, substantial evidence supported the court's implied finding the stalking offense was separate from the criminal threat made directly to Hooks. That threat, in count 3, in which Bronson told Hooks as

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omission be punished under more than one provision. An acquittal or conviction and sentence under any one bars a prosecution for the same act or omission under any other."

he followed her home that he would "fuck her up," was a singular act intended to immediately frighten her. The stalking offense, in contrast, was comprised of a series of repeated acts over a lengthy period of time, some immediately threatening, some not, intended to engender a prolonged state of fear and intimidation. (See *People v. Franz* (2001) 88 Cal.App.4th 1426, 1440 [unlike a threat defined by § 422, a threat for purposes of stalking statute does not require any communication; stalking as defined in § 646.9 may be implied by a prolonged pattern of conduct designed to intimidate]; see generally *People v. Ewing*, *supra*, 76 Cal.App.4th at p. 210.)

Bronson alternatively argues the sentence on counts 2 and 3 should be stayed because the acts charged were all part of an indivisible course of action that supported his corporal injury conviction. This contention also lacks merit. Vandalism does not share an objective or intent with either corporal injury or making criminal threats, and the sentence for that offense was not subject to a stay under section 654. Under some circumstances, where the threat was made at the same time and as part of the infliction of the corporal injury, those two offenses may be sufficiently interconnected that a stay of the sentence for making a criminal threat is mandated by section 654. (Cf. *People v. Hamlin* (2009) 170 Cal.App.4th 1412, 1425 [defendant sentenced to indeterminate life term for torture; sentences for making a criminal threat and inflicting corporal injury on a spouse stayed pursuant to § 654].) Here, however, Bronson injured Hooks when he dragged her as she tried to hold on to a gate to protect herself from him. He did not make the criminal threat until after Hooks broke free of his grasp, got in her car and attempted to flee. This evidence amply supports the trial court's implied finding Bronson had distinct objectives when he inflicted corporal injury on Hooks and made a criminal threat.

DISPOSITION

The judgment is affirmed.

PERLUSS, P. J.

We concur:

ZELON, J.

JACKSON, J.