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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 SIX

THE PEOPLE, Plaintiff and Respondent, v. ISMAEL PARRA et al., Defendant and Appellant.	2d Crim. No.B251085 (Super. Ct. No. 1368090) (Santa Barbara County)

A jury found Ismael Parra and Michael Cardenas guilty of second degree murder (count 1; Pen. Code, § 187, subd. (a)[1]), gang-related battery (count 2; §§ 242, 186.22, subd. (d)) and street terrorism (count 3; § 186.22, subd. (a)). The jury also found true the special allegation that the murder was committed for the benefit of, at the direction of or in association with a criminal street gang as to Cardenas only. (§ 186.22, subd. (b)(1)(C).)

[1] All statutory references are to the Penal Code unless otherwise stated.

The trial court sentenced Parra and Cardenas to 15 years to life on count 1. The court imposed a three year concurrent term for each on count 2. The court stayed punishment on count 3 and on Cardenas's gang enhancement pursuant to section 654. The court ordered victim restitution in the amount of $10,457.82. The abstract of judgment is corrected to make restitution joint and several as to Parra and Cardenas. In all other respects, we affirm.

FACTS

Count 2: Battery on John Doe

On October 11, 2010, Parra and Cardenas purchased an 18-pack of beer from a liquor store. Later that day, Steven Santana purchased more alcohol and brought it back to Parra's house. Parra, his brother Miguel,[2] Cardenas and other Eastside gang members were at the house. They all drank in the backyard for hours.

Around midnight, having run out of beer for a second time, Santana, Cardenas and Parra returned to the liquor store. Santana and Cardenas went into the liquor store while Parra remained outside. An unidentified Latino man arrived on a bicycle and went into the store.

Santana and Cardenas followed the man out of the store. Parra joined Santana and Cardenas in encircling the man. Parra struck the man in the head with a closed fist. Santana and Cardenas stood by to protect Parra. Parra displayed a gang sign and called out "Eastside" as they left. The incident was recorded on the store's security camera.

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[2] For the sake of clarity, Ismael Parra is "Parra" and Miguel Parra is "Miguel" herein.

The three men returned to Parra's house and continued to drink. They ran out of beer for a third time after midnight. They discussed buying more, but they had no money.

Count 1: Murder of George Ied

George Ied, a Syrian immigrant, was walking home from work at the liquor store that night. He lived around the corner from Parra. Ied was across the street from Parra's house, talking to his brother on the phone as he walked. Santana, Cardenas and Parra crossed the street to meet him.

Cardenas was in a fighting mood. He asked Ied if he had a few dollars for beer. Ied said something about his brother. Cardenas hit him in the head and knocked him down. Cardenas punched Ied about 20 times and stomped on him about five times. He knelt over Ied's head, grabbed his shirt and punched him in the face.

Parra stood to the side of Ied's chest and kicked him in the upper torso six to eight times. He punched Ied in the face at least 20 times.

Miguel and Santana joined in. All four were kicking and punching Ied. Ied tried to defend himself then he stopped moving. The assault continued for another 15 seconds after Ied stopped moving. Parra declared "Eastside, motherfucker" a number of times.

A neighbor saw Ied on the ground and called 911. Ied spent five days in a coma before he died. The cause of death was blunt force trauma.

Immediately after the fight, the Parras returned to their house with Cardenas. Santana walked in the direction of his house several blocks away. He slept in a park that night and

returned to his home the next morning, after his mother left for work.

On the night of the beating, Cardenas telephoned his girlfriend and asked her to bring him some clothes. Cardenas, who lived on the street most of the time, asked her to meet him at a bus stop on Salinas Street. She met him there with some clothes. Later the police found a pair of black boots in good condition in a trash can at the bus stop.

Meanwhile the police were canvassing the neighborhood where the beating occurred. At 2:00 a.m. Santa Barbara Police Officer Aaron Tudor noticed a large unattended fire burning in a barbeque pit at Parra's house. When he went to investigate, Miguel came out yelling profanities. He was intoxicated and very upset. Tudor noticed blood on Miguel's clothing near his shoes.

Tudor looked inside Miguel's bedroom. There was a smear of blood and several blood droplets on the bed sheet. DNA typing linked the blood to Miguel, Parra and Ied.

Parra entered the bedroom and saw Tudor there. Parra immediately turned around, closed the bedroom door and went into the kitchen. Tudor spoke with Parra. Parra was intoxicated and uncooperative.

Police Sergeant Kenneth Kushner, a gang detective, arrived at the Parra home at about 2:30 a.m. with a search warrant. The fire in the barbeque pit was still smoldering. The pit contained a piece of the bottom of a Converse shoe with the pattern still intact. The pit also contained shoelaces and pieces of clothing. Miguel told Kushner that Parra was still asleep in their shared bedroom. Miguel was wearing a pair of Converse shoes.

He told Kushner that Parra was also wearing Converse shoes that night.

The attack on Ied occurred near a parked pickup truck. The police found a bloody partial palm print, about three inches wide, in the rear portion of the truck bed. The print showed seven points of similarity with Cardenas's print, but not a sufficient number of points to exclude all others. Miguel, Parra and Santana, however, were excluded.

There was a blood stain on the street near the truck. Bloody shoe prints with a pattern similar to that on the portion of the sole found in the barbeque pit were in the street.

Parra was arrested and interviewed by Detective Kushner. At first Parra denied any involvement in the assaults. Later he admitted punching the bicyclist. He said the bicyclist called him fat.

Parra also initially denied any knowledge of the assault on Ied. Later Parra said he crossed the street to see what was happening with Ied and Cardenas. When he arrived, Ied was on the ground. He tripped over Ied and hurt his knee. He got angry and kicked Ied in the legs once or twice. Parra said he was very drunk.

Parra's hands were swollen. He had a fresh blister or burn on his left palm and a fresh injury to his knee. His hands were still swollen the next day.

A few days after the assault the police had a warrant for Cardenas's arrest. They found him at his mother's house. When the police arrived, Cardenas fled. After about two hours, Cardenas surrendered to the police. He had a bloody abrasion on his left hand and fresh swelling and redness on the knuckles of both hands. His fingertips were blistered and swollen.

Gang Evidence

Santa Barbara Police Sergeant Andre Feller testified as a gang expert. He said Cardenas, Parra, Miguel and Santana are members of Santa Barbara's Eastside criminal street gang. They belong to the Traviesos clique of the gang. The gang has about 250 members.

The primary activities of the gang are murder, attempted murder and assaults by means of force likely to produce great bodily injury.

In opining that Cardenas and Parra are members of the Eastside gang, Detective Feller relied on police reports showing them involved in gang activity and admitting to their gang membership. Feller also testified he has known Parra personally for a number of years. Parra has Eastside gang tattoos. Cardenas also has Eastside gang tattoos. In addition the garage of Cardenas's house has extensive Eastside gang graffiti on the inside.

The prosecutor asked Feller hypothetical questions based on the People's evidence in the case. Feller opined that both the battery at the market and Ied's murder were committed for the benefit of a street gang.

PARRA'S DEFENSE

Parra testified on his own behalf. He admitted that he was an associate of the Eastside gang, but he claimed he declined to be initiated.

In 2010 Parra pled guilty in federal court to a charge of selling drugs in Santa Paula. His plea agreement specified that when he sold cocaine he was an Eastside gang member. He was placed on federal probation.

Battery

At about 11:20 p.m., on October 11, 2010, Parra walked with Cardenas and Santana to a liquor store to buy more beer. Parra waited outside while his companions went into the store. A man on a bicycle rode up and went into the store. Cardenas and Santana followed the man out of the store. Parra hit the man lightly so that his companions would think he was in league with them and to keep them from hitting the man. Parra told the man to leave. Parra threw a gang sign to let Cardenas and Santana know the encounter was over. Parra said his fist was swollen from hitting the man and from a hard "fist bump" he received earlier that evening from a man named Sparky.

Ied's Murder

Parra remained in the driveway of his house while Cardenas and Santana went across the street to confront Ied. Parra saw Cardenas and Santana punch, kick and stomp on Ied, not letting him get up.

Parra went across the street to see what was happening and to protect Ied. When he arrived, he tripped on Ied's upper leg. Parra was being kicked by Cardenas and Santana. Parra did not know whether the kicks were intended for Ied.

Parra got up and hit Ied in the knee and shin up to nine times in rapid succession. Parra believed he had to appear to be helping Cardenas and Santana. Nevertheless, Parra tried to make them stop, yelling in Spanish, "Stop. Enough. That's it." Parra never kicked Ied or hit him in the head.

When Cardenas and Santana left, Parra shook Ied and asked if he was all right. Ied lay motionless and did not reply. Parra went home not wanting to be identified by Ied.

Someone started an odd-smelling fire in the back yard. Parra fell asleep. He never burned himself that evening. What appeared to be a burn was actually a callous caused by doing pushups.

Santana and Miguel Parra

Santana agreed to testify for the prosecution. In exchange for a prison sentence not to exceed 21 years, he pled guilty to voluntary manslaughter and street terrorism and admitted a gang enhancement.

The jury acquitted Miguel of murder, but deadlocked on lesser offenses and on the street terrorism charge. A mistrial was declared on those counts.

DISCUSSION

I

Cardenas contends the trial court erred in denying his *Batson*/*Wheeler* motion.

Batson v. Kentucky (1986) 476 U.S. 79 and *People v. Wheeler* (1978) 22 Cal.3d 258 prohibit a prosecutor from exercising preemptory challenges to potential jurors solely because of their race. When a defendant alleges a *Batson*/*Wheeler* violation, a three-part test is used to determine whether a potential juror was challenged on the basis of race. (*United States v. Collins* (9th Cir. 2009) 551 F.3d 914, 919.) First, the defendant must make a prima facie showing that the prosecutor's challenge was made on an impermissible ground, such as race. (*Ibid.*) Second, if the defendant has made such a prima facie showing, the burden shifts to the prosecutor to offer a race-neutral basis for the challenge. (*Ibid.*) Third, if the prosecutor offers a race-neutral basis, the trial court must decide

whether the defendant has proved the prosecutor's motive was purposeful racial discrimination. (*Ibid.*)

Here after the prosecutor made peremptory challenges to two Latina potential jurors, Cardenas objected that the prosecutor made two of six peremptory challenges against Latinos.

One of the Latina potential jurors was M.A. She was 22 years old, not married and worked for the City of Carpenteria as an administrative assistant. The prosecutor stated, "I know when I was in my twenties I was not ready to hear a case like this. Not by a long shot." M.A. responded that she thought she could "handle it."

Another Latina potential juror was A.G. She was in her twenties, not married and worked as a veterinary technician. Her father is a juvenile institutions officer, her mother works for the probation department and her uncle is deputy chief of probation. A.G. stated she had a problem with public speaking.

In response to Cardenas's *Batson*/*Wheeler* motion, the trial court stated: "Well, at this point I don't think a prima facie case has been made. It's hard to know where we are exactly in the voir dire process. Both of the p[er]emptory challenges were exercised against very young Hispanic females who to the Court's view appeared unsophisticated and a little bit unworldly and not a lot of experience. And there may be a point where I get where it's appropriate[ ], even though there's not a prima facie case, to give [the prosecutor] the opportunity to respond, but I don't think we're at that stage yet."

Cardenas argues the standard for making a prima facie case is very low and was met. (Citing *United States v. Collins*, *supra*, 551 F.3d at p. 920 [burden is small and easily

met].) But the trial court stated Cardenas failed to state a prima facie case because it was obvious the prosecutor challenged the potential jurors because of their youth and unworldliness. That is a legitimate basis for a peremptory challenge. (See *People v. Lomax* (2010) 49 Cal.4th 530, 575 [youth and immaturity valid grounds for challenge].) Where, as here, it is clear to an experienced trial judge that the prosecutor's challenges are based on legitimate grounds, there is no reason to proceed to the second stage and require the prosecutor to explain the obvious.

Cardenas argues that the prosecutor's failure to challenge an alternate juror who was in her twenties demonstrates an impermissible motive. That juror was single, unemployed and had a degree in sociology with an emphasis in criminology. Cardenas claims the juror "apparently" was not Hispanic. Cardenas cites nothing in the record to support his claim that the juror was not Hispanic. The juror is identified only by a number. In fact, Cardenas points to nothing in the record that establishes the ethnicity of any particular seated juror.

Other factors also show the prosecutor did not challenge the Latina jurors on impermissible grounds. The prosecutor peremptorily challenged another potential juror who was in her twenties. That juror did not have a Hispanic surname. In addition, the prosecutor tried to keep a potential juror with a Hispanic surname. She knew police officers who were potential witnesses. The trial court dismissed her on its own motion over the prosecutor's statement that he was unlikely to call as witnesses the officers she knew.

The record here does not show that the prosecutor exercised any peremptory challenge for an impermissible reason.

II

Cardenas contends the trial court erred by admitting the testimony of the palm print expert.

The People called Michael Ullemeyer, an identification technician with the Santa Barbara Police Department. Ullemeyer analyzed photographs of a bloody partial palm print taken from the pickup truck parked near the scene of the attack on the morning after Ied's murder. He compared the photographs of the palm print with Cardenas's palm prints taken at the Santa Barbara County Sheriff's Office. Ullemeyer testified he found seven points of similarity between the bloody palm print and Cardenas's palm print. But Ullemeyer said the bloody palm print was smeared so that he could not say for certain that it was made by Cardenas to the exclusion of all others. Ullemeyer also said that Santana, Parra and Miguel could be excluded as possible sources of the bloody print. DNA tests showed the blood in the palm print belonged to Ied.

The trial court admitted the evidence over Cardenas's objection that the evidence should be excluded under Evidence Code section 352. The court's decision to allow expert testimony is reviewed for abuse of discretion. (*People v. Lindberg* (2008) 45 Cal.4th 1, 49.)

Evidence is relevant if it has any tendency in reason to prove or disprove any disputed fact of consequence to the determination of the action. (Evid. Code, § 210.) A palm print made with Ied's blood that has seven points of similarity with Cardenas's palm print has a tendency in reason to prove Cardenas was involved in Ied's murder. Cardenas cites no authority requiring such evidence to exclude all other persons.

The trial court drew an apt analogy to an eyewitness who cannot identify any facial features of a perpetrator, but who can give a description of his height and weight. The evidence is admissible even though it does not conclusively identify the defendant.

Evidence Code section 352 gives the trial court the discretion to exclude evidence where its probative value is substantially outweighed by the probability its admission will create a substantial danger of undue prejudice. Here there is no substantial probability of undue prejudice. The expert conceded he could not say with certainty that the bloody palm print belonged to Cardenas to the exclusion of all others. To the extent the jury determined the palm print was made by Cardenas, the resulting prejudice would not be undue. To the extent the jury was unable to make that determination, there would be no prejudice.

III

Cardenas and Parra contend the jury instructions on voluntary intoxication irreconcilably conflicted and incorrectly stated the law.

The trial court gave modified versions of CALCRIM Nos. 404 and 3426.

CALCRIM No. 404 provides in part: "If you conclude that the defendant was intoxicated at the time of the alleged crime, you may consider this evidence in deciding whether the defendant: [¶] A. Knew that a perpetrator intended to commit Assault; [¶] AND [¶] B. Intended to aid and abet another perpetrator in committing Assault."

CALCRIM No. 3426 provides in part: "You may consider evidence, if any, of the defendant's voluntary

intoxication only in a limited way. You consider that evidence only in deciding whether the defendant acted or failed to do an act with premeditation and deliberation; or express malice; or the specific intent to assist or further or promote criminal conduct by gang members."

Cardenas and Parra argue an irreconcilable conflict exists because CALCRIM No. 3426 instructs that the jury may consider voluntary intoxication "only" for the purposes stated therein. Those purposes do not include aiding and abetting. Yet CALCRIM No. 404 instructs that the jury may consider voluntary intoxication for the purpose of determining whether a defendant intended to aid and abet another perpetrator. Cardenas and Parra argue the trial court should have incorporated aiding and abetting into its modified version of CALCRIM No. 3426.

Any error in the instructions is harmless. First, in giving CALCRIM No. 404, the trial court correctly instructed on voluntary intoxication as it relates to aiding and abetting. The jury was not shy about asking for clarification when it was needed. It submitted seven questions to the court during deliberations, including: "We are struggling with aiding and abetting. If there is a perpetrator, does it matter what level of responsibility the others who commit the assault have in order to qualify as aiders and abettors."

But the jury did not ask for clarification on intoxication as it relates to aiding and abetting. There is no reasonable probability the jury focused on the word "only" in CALCRIM No. 3426 and ignored an entire instruction on voluntary intoxication as it relates to aiding and abetting.

Second, the jury found Cardenas and Parra guilty of second degree murder, a specific intent crime. Cardenas and Parra do not contest that the jury was properly instructed on voluntary intoxication as it relates to murder. There is no reasonable probability the jury would conclude Cardenas and Parra had the specific intent required for murder, but were prevented by voluntary intoxication to form the specific intent required for aiding and abetting.

Third, there is no reasonable probability the jury found Cardenas or Parra guilty on a theory of aiding and abetting. They were both principals. It is uncontradicted that Cardenas initiated the assault by throwing the first punch. Thereafter Cardenas hit Ied about 20 times and stomped on him about five times. Parra kicked Ied in the upper torso six to eight times and punched him in the face 20 times. Parra's defense that he simply tripped over Ied and kicked him in the legs was risible and was not believed by the jury.

There is no reasonable probability Cardenas or Parra would have obtained a more favorable result in the absence of the alleged error. (*People v. Watson* (1956) 46 Cal.2d 818, 836.)

IV

Cardenas contends the jury instructions misdefined "primary activities" of a criminal street gang.

The trial court instructed the jury with CALCRIM Nos. 1400 (active participation in a criminal street gang) and 1401 (felony committed for the benefit of a criminal street gang) on the meaning of a criminal street gang's "primary activities" as follows: "A *criminal street gang* is any ongoing organization, association, or group of three or more persons, whether formal or informal: . . . [¶] 2. That has, as one or more of its primary

activities, the commission of assaults with force likely to commit great bodily injury, attempted murder and murder; . . . [¶] In order to qualify as a *primary* activity, the crime must be one of the group's chief or principal activities rather than an occasional act committed by one or more persons who happen to be members of the group."

In addition, the trial court gave the following special instruction at the request of the prosecutor:

"The phrase 'primary activities,' as used in the gang statute, implies that the commission of one or more of the statutorily enumerated crimes is one of the group's 'chief' or 'principal' occupations. That definition would necessarily exclude the occasional commission of those crimes by the group's members. [¶] Nothing prohibits the jury from considering the circumstances of the present or charged offense in deciding whether the group has as one of its primary activities the commission of one or more of the statutory listed crimes. [¶] Both past and present offenses have some tendency in reason to show the group's primary activity, and therefore are admissible. [¶] The 'primary activities' element might also be satisfied by expert testimony, where a police officer gang expert testified that the defendant's gang was primarily engaged in the sale of narcotics and witness intimidation, enumerated felonies in the statute."

During deliberations, the jury asked the trial court "under the second element describing the definition of a criminal street gang, the language [of CALCRIM No. 1401] states that one of its primary activities may include 'the commission of murder, attempted murder, *and* assaults by means of force likely to produce great bodily.' (Line 27). Do all three activities have to be

satisfied or is one sufficient? Could it be the commission of murder, attempted murder, *or* assaults by means of force?"

The trial court responded: "You must conclude, beyond a reasonable doubt, that the designated crimes (murder, attempted murder, assaults by means of force likely to produce great bodily injury), alone or in combination, satisfy the requirement for primary activity as defined in Instruction 1401 (page 69, lines 7-9) plus the special instruction."

Cardenas argues the trial court's use of the phrase "alone or in combination" is contrary to section 186.22, subdivision (e). Subdivision (e) defines "pattern of criminal gang activity." It requires proof of the commission of two or more specified offenses. Cardenas claims the court's reply that any of the crimes "alone" would suffice was wrong.

But the trial court was not replying to a question about the definition of "pattern of criminal gang activity" contained in section 186.22, subdivision (e). Instead, the court was replying to a question about the definition of "criminal street gang" contained in section 186.22, subdivision (f). As such, the court's response was entirely appropriate. Any of the listed offenses "alone" could constitute the gang's "primary activities."

Also during deliberations, the jury asked a second question about the meaning of "primary activities." The jury asked: "Special instruction on page 72 appears to broaden the scope of 'primary activity.' Is special instruction used in conjunction with definition on page 68, lines 26-28 [CALCRIM No. 1401]? Page 68 is a narrower definition and 72 is broader."

The trial court replied: "The special instruction regarding 'primary activity' is intended to be read together with the standard instruction on page 68, lines 26-28."

Cardenas argues the trial court's response did not dispel the jury's understanding that the special instruction broadened the definition of "primary activities."

The special instruction in defining "primary activities" uses the phrase "statutorily enumerated crimes" without specifying what the crimes might be. CALCRIM No. 1401 specifies murder, attempted murder and assaults with force likely to commit great bodily injury as the offenses the jury must find as the gang's "primary activities." When read together, it is clear the jury must find as one or more of the gang's primary activities, the commission of murder, attempted murder and assaults likely to cause great bodily injury. The trial court's reply was sufficient.

Cardenas complains that the special instruction states the term "primary activities" "implies" the commission of one or more of the statutorily enumerated crimes is one of the group's chief or principal occupations. Cardenas claims the word should be "means," not "implies." But our Supreme Court used the word "implies." (*People v. Sengpadychith* (2001) 26 Cal.4th 316, 323.) In any event, Cardenas does not explain how the use of the word "implies" could have confused the jury.

Cardenas argues that paragraphs two, three and four of the special instruction told the jury it could consider any offense in finding the gang's primary activities. Those paragraphs told the jury it could consider the present offense; that it could consider both past and present offenses; and that the primary activities might be satisfied by expert testimony. Read in context with the first paragraph and in conjunction with CALCRIM No. 1401, none of the paragraphs told the jury it could consider any offense.

Finally, Cardenas and Parra argue that the special instruction was an improper "pinpoint" instruction. An instruction is improper if it is argumentative; that is, it invites the jury to draw a particular conclusion from specified items of evidence. (*People v. Wright* (1988) 45 Cal.3d 1126, 1135.) Cardenas and Parra point out that the special instruction invites the jury to consider evidence of past and present offenses and expert testimony in determining the gang's primary activities.

But if the instruction was an improper pinpoint instruction, the error was harmless. Instructing the jury that it may consider past and present offenses and expert testimony is simply a statement of the obvious.[3]

V

Cardenas and Parra contend the gang-related charges (§ 186.22, subds. (a) & (b)(1)(C)) must be reversed pursuant to *People v. Sanchez* (2016) 63 Cal.4th 665 (*Sanchez*).

In *Sanchez* our Supreme Court discussed the role of hearsay in gang expert testimony. *Sanchez* held that a gang expert may rely on hearsay in forming an opinion within his field of expertise. (*Sanchez*, *supra*, 63 Cal.4th at p. 676.) But an expert cannot relate "case-specific facts" about which he has no independent knowledge unless they are independently proven by competent evidence or are covered by a hearsay exception. (*Ibid.*) "Case-specific facts are those relating to the particular events and participants alleged to have been involved in the case being tried." (*Ibid.*)

Cardenas and Parra challenge the gang expert's testimony that they are members of the Eastside gang. Those are

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[3] Nothing in this opinion should be construed as approving the special instruction given here.

case-specific facts. Some of Sergeant Feller's testimony is based on police reports and other hearsay. But there is overwhelming admissible evidence that Cardenas and Parra are members of the Eastside gang.

Santana testified that Cardenas and Parra are members of the Eastside gang and have gang tattoos. Photographs admitted into evidence show Cardenas and Parra with gang tattoos. Feller had known Parra for eight to ten years prior to the incident. The video at the liquor store shows Parra throwing an Eastside gang sign. Parra admitted in a federal plea agreement that he is a member of the Eastside gang. When Feller served a search warrant on Cardenas's house, he saw that the garage wall was filled with Eastside gang graffiti.

The error in admitting the hearsay gang evidence was harmless by any standard.

VI

Parra and Cardenas contend that to the extent we deem any of their arguments forfeited by their failure to object, they received ineffective assistance of counsel. But we did not resolve any of their arguments based on waiver arising from the failure to object.

VII

Parra and Cardenas contend the restitution order should be joint and several between Parra, Cardenas, Miguel and Santana.

The People concede that the restitution order should be made joint and several as between Parra and Cardenas. But Miguel was not convicted of anything. Thus the trial court had no jurisdiction to order him to pay restitution. Santana is not a party to this appeal. Parra and Cardenas cite no authority that

would give us jurisdiction to amend the judgment as to someone who is not a party to the appeal.

DISPOSITION

The abstract of judgment is corrected to make restitution joint and several as to Parra and Cardenas. In all other respects, the judgment is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Brian E. Hill, Judge

Superior Court County of Santa Barbara

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