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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

ANTHONY SANDERS,

Defendant and Appellant.

B272034

(Los Angeles County
Super. Ct. No. BA337648)

APPEAL from a judgment of the Superior Court of Los Angeles County, Larry Paul Fidler, Judge. Affirmed as modified.

Matthew Alger, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Shawn McGahey Webb and Abtin Amir, Deputy Attorneys General, for Plaintiff and Respondent.

Defendant Anthony Sanders challenges as excessive his restitution fine of \$10,000 “as to each count.” We agree that the restitution fine exceeds the statutory maximum, and thus we modify the judgment by reducing the restitution fine to \$10,000. As modified, the judgment is affirmed.

FACTUAL AND PROCEDURAL BACKGROUND¹

Defendant was tried by a jury and convicted of one count of first degree murder (count 1), three counts of attempted murder (counts 2, 3, 4), two counts of assault on a peace officer (counts 7, 8), and one count of shooting at an occupied motor vehicle (count 10).

On April 29, 2016, the trial court sentenced defendant to state prison for a term of life without the possibility of parole, plus 168 years. Among other things, the court also ordered defendant to pay a restitution fine of \$10,000 “as to each count.”

DISCUSSION

Defendant’s sole contention on appeal is that the trial court erred in imposing a separate restitution fine “as to each count,” rather than a single restitution fine for the entire case. The People agree that a restitution fine in excess of \$10,000 was error, as do we.

Penal Code section 1202.4, subdivision (b), provides that “[i]n every case where a person is convicted of a crime, the court shall impose a separate and additional restitution fine, unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record.” The restitution fine “shall be

¹ Since this appeal does not raise any issue regarding the facts of the underlying offense, we will omit the traditional statement of facts.

set at the discretion of the court and commensurate with the seriousness of the offense. If the person is convicted of a felony, the fine shall not be less than three hundred dollars (\$300) and not more than ten thousand dollars (\$10,000).” (Pen. Code, § 1202.4, subd. (b)(1).)

In setting a felony restitution fine, the court “may determine the amount of the fine as the product of the minimum fine pursuant to paragraph (1) multiplied by the number of years of imprisonment the defendant is ordered to serve, multiplied by the number of felony counts of which the defendant is convicted.” (§ 1202.4, subd. (b)(2).)

“[T]he maximum [restitution] fine that may be imposed in a criminal prosecution is \$10,000 “regardless of the number of victims or counts involved.” [Citation.]’ [Citations.]” (*People v. Blackburn* (1999) 72 Cal.App.4th 1520, 1534; see also *People v. Ferris* (2000) 82 Cal.App.4th 1272, 1277–1278 [same].) A court has “no statutory authority to impose a restitution fund fine exceeding \$10,000.” (*People v. Martinez* (2014) 226 Cal.App.4th 1169, 1191, fn. 14.) Thus, the trial court in the present case erred in imposing multiple \$10,000 restitution fines.

Curiously, although both the court’s oral pronouncement and minute order reflect a restitution fine of \$10,000 as to each count, the abstract of judgment indicates imposition of only a single \$10,000 restitution fine. The People thus contend that “neither remand nor correction of the minute order is necessary because enforcement of the judgment is carried out according to the abstract of judgment, and the abstract already reflects a single \$10,000 fine.” Defendant disagrees, urging that we should order correction of the minute order to avoid possible future adverse consequences resulting from inaccurate court records.

We agree with defendant that correction of the minute order is appropriate. (See, e.g., *People v. Brown* (2017) 11 Cal.App.5th 332, 343 [ordering trial court to prepare a corrected sentencing minute order]; *People v. Flores* (2016) 2 Cal.App.5th 855, 861, fn. 2, 882–883 [same].)

DISPOSITION

The judgment is modified to reduce the restitution fine to \$10,000, and the judgment as modified is affirmed. The trial court is directed to prepare an amended minute order to reflect this modification.

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EDMON, P. J.

We concur:

LAVIN, J.

STONE, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.