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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 TWO

THE PEOPLE, Plaintiff and Respondent, v. LUIS PEREZ et al., Defendants and Appellants.	B269704 (Los Angeles County Super. Ct. No. TA125735)

APPEAL from a judgment of the Superior Court of Los Angeles County. Eleanor Hunter, Judge. Affirmed as modified.

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

Emry J. Allen, under appointment by the Court of Appeal, for Defendant and Appellant Miguel Barajas.

Cannon & Harris, Donna L. Harris, under appointment by the Court of Appeal, for Defendant and Appellant Ezequiel Ruiz.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Collen M. Tiedemann and Michael Katz, Deputy Attorneys General, for Plaintiff and Respondent.

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Two gang members brutally beat a rival gang member to unconsciousness and rolled him in a trash can to an empty lot where their fellow gang members hang out. A third gang member at the lot "finished the job" by swinging a t-shirt full of cinderblock shards at the rival's head, moving the rival's body to a park, and setting it ablaze. A jury convicted the first two gang members of kidnapping and second degree murder and the third of first degree murder. They all appeal. We conclude the trial court properly admitted the jailhouse confessions of two of the three gang members, properly instructed the jury, and properly imposed separate sentences for the kidnapping and murder. We further conclude that the convictions are supported by substantial evidence. Thus, we affirm the convictions and sentences, except to direct that clerical errors in two of the sentences be corrected.

FACTS AND PROCEDURAL BACKGROUND

I. Facts

In the early morning hours of September 1, 2012, defendant Luis Perez (Perez), defendant Ezequiel Ruiz (Ruiz) and Carlos Gallegos (Gallegos) punched and kicked Julio Mejia (Mejia) until he was on the ground, and then continued to stomp on him. Blood was everywhere. Perez, Ruiz and Gallegos were members of the 109th Street Village Boys (Village Boys) street gang. Mejia was a member of the 5th and Hill street gang, a rival gang whose members had previously shot Gallegos. As Mejia was being beaten, Perez said, "Fuck Shit Hill," a derogatory term for 5th and Hill members.

Perez and Ruiz placed Mejia's limp body in a trash can and wheeled him down the street to an empty lot where Village Boys members would hang out; the lot was surrounded by a fence

draped with blue tarp. Defendant Miguel Barajas (Barajas), another Village Boys gang member, was at the lot when the others arrived. Perez carved the letter "V"—one of the Village Boys' symbols—into Mejia's chest by making ten cuts with a sharp object. Perez and Ruiz then walked away, leaving Mejia moaning in a pool of his own blood.

Barajas decided to "clean[] up their mess" by "finish[ing] the job." He wrapped several pieces of broken cinderblock into a t-shirt and hit Mejia over the head with his makeshift weapon until Mejia no longer moved. Barajas and his sister, who was then dating Ruiz, wrapped Mejia's body in a carpet and blue tarp, placed the body in the trunk of Perez's girlfriend's car, and drove to a park in Long Beach. Once at the park, Barajas put Mejia's wrapped-up body in a group of bushes, doused it with lighter fluid, and set it afire.

II. Procedural Background

The People charged Perez, Ruiz and Barajas with murder. (Pen. Code, § 187.)[1] The People also charged Perez and Ruiz with kidnapping (§ 207, subd. (a)), and Perez with torture (§ 206). To support a sentence of life without the possibility of parole for the murder charge, the People alleged special circumstances: As to all three defendants, the People alleged that the murder was committed in the course of a kidnapping (§ 190.2, subd. (a)(17)) and that defendants intentionally killed Mejia while they were active participants in a criminal street gang (§§ 186.22, subd. (f) & 190.2, subd. (a)(22)); as to Perez, the People also alleged that the murder was intentional and involved the infliction of torture

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1 All further statutory references are to the Penal Code unless otherwise indicated.

(§ 190.2, subd. (a)(18)). The People alleged that all of the charged crimes were committed for the benefit of, at the direction of, or in association with a criminal street gang (§ 186.22, subd. (b)(1)). The People further alleged that Barajas had served two prior prison terms (§ 667.5, subd. (b)).

All three defendants were tried together.

The jury convicted Barajas of first degree murder, and found true the gang participation special circumstance. The jury convicted Perez and Ruiz of second degree murder, and found true the kidnapping special circumstance. The jury convicted Perez and Ruiz of kidnapping, and Perez of torture. As to all crimes and all defendants, the jury found true the allegation that the crimes were committed for the benefit of, at the direction of, or in association with a criminal street gang.

The trial court sentenced Perez to prison for 48 years to life, comprised of 15 years to life for second degree murder, plus a consecutive life sentence with a 15-year minimum for the torture count (calculated as a life term with a 15-year minimum for the gang enhancement), plus a consecutive 18-year term for the kidnapping (calculated as an eight-year base term plus 10 years for the gang enhancement). The court sentenced Ruiz to prison for 33 years to life, comprised of 15 years to life for second degree murder plus a consecutive 18-year term for the kidnapping. The court sentenced Barajas to life without the possibility of parole plus two years, one for each of his two prior prison terms; the court stayed the gang enhancement.

Each defendant filed a timely notice of appeal.

DISCUSSION

I. Admission of Jailhouse Statements

A. Pertinent facts

In its case-in-chief, the People introduced statements Perez and Barajas had separately made to jailhouse informants while each was in custody on unrelated charges. Perez told the informants that he had jumped a gang rival, "beat that fool to death," rolled him down the street in a trash can, and then carved a "V" in his chest. Perez also said he drove the rival's body to Long Beach, doused it in gasoline, set it on fire, and then threw it in a river. Barajas told the informants that he was hanging out at the vacant lot when Perez and Ruiz brought Mejia's body in the trash can, that he "finished the job" by bludgeoning Mejia with the cinder block-filled t-shirt, that he drove the body to a park in Long Beach, and that he doused the body in lighter fluid and set it afire.

B. Analysis

Defendants challenge the admission of these statements on two grounds: (1) Perez and Barajas assert that these statements were obtained in violation of *Miranda v. Arizona* (1966) 384 U.S. 436 (*Miranda*), due process, and the Sixth Amendment right to counsel; and (2) Perez and Ruiz argue that the admission of Barajas's statements—when he did not testify at trial—violated their constitutional rights to confront witnesses, to due process, and to present a defense. We independently review claims of constitutional error. (*People v. Enraca* (2012) 53 Cal.4th 735, 753; *People v. Mayo* (2006) 140 Cal.App.4th 535, 553.)

1. Perez's and Barajas's challenges

The admission of Perez's and Barajas's statements to jailhouse informants did not violate their *Miranda* rights. As a

means of safeguarding a suspect's privilege against self-incrimination, *Miranda* requires law enforcement to advise suspects of their rights to remain silent and to have counsel present whenever the suspects are subjected to "custodial interrogation." (*People v. Jackson* (2016) 1 Cal.5th 269, 338-339.) Although suspects voluntarily speaking with jailhouse informants are technically in "custody" and being "interrogated," *Miranda* does not apply to them because the dangers against which *Miranda* guards—namely, "a police-dominated atmosphere and compulsion"—"are absent when the defendant is unaware that he is speaking to a law enforcement officer." (*People v. Davis* (2005) 36 Cal.4th 510, 554; *Illinois v. Perkins* (1990) 496 U.S. 292, 298-300 (*Perkins*).) Thus, Perez's and Barajas's *Miranda* arguments are without merit.

The admission of the statements did not violate Perez's and Barajas's due process rights. Due process precludes the use of a defendant's statement when that statement is the product of coercion. (*People v. McCurdy* (2014) 59 Cal.4th 1063, 1086.) Perez and Barajas argue that their statements were coerced because (1) they were pressured by the jailhouse informants to implicate themselves, and (2) the use of police deception itself was coercive. We reject both arguments. The first argument is without merit in light of the trial court's finding, after listening to the recorded conversations, that Perez and Barajas were "just chitchatting" and "shooting the breeze" and that "there were no threats, no . . . aggression, and nothing to indicate [defendants were] afraid of getting beat by these confidential informants." Defendants cite a number of cases in support of their argument, but each involves a level of coercion absent here. (*People v. Esqueda* (1993) 17 Cal.App.4th 1450, 1486-1487 [interrogation

involving "lies, accusations, exhaustion, isolation and threats" may be coercive]; *People v. Carrington* (2009) 47 Cal.4th 145, 176 [interrogation exploiting suspect's "particular psychological vulnerability" may be coercive]; *People v. Kelly* (1990) 51 Cal.3d 931, 953 [interrogation targeting suspect's "religious anxieties" may be coercive].) Nor did the use of subterfuge by itself constitute coercion (*People v. Chutan* (1999) 72 Cal.App.4th 1276, 1280 ["subterfuge is not necessarily coercive in nature"]), particularly where it is authorized by another more specific constitutional guarantee (*Perkins*, *supra*, 496 U.S. at p. 298 ["*Miranda* was not meant to protect suspects from boasting about their criminal activities in front of persons whom they believe to be their cellmates"]).

The admission of the statements did not violate the Sixth Amendment. Although the Sixth Amendment prohibits police from deliberately eliciting statements using jailhouse informants (*People v. Hartsch* (2010) 49 Cal.4th 472, 490-491), the Sixth Amendment is "offense specific"—that is, it only applies to the subject of crimes for which "'adversary judicial criminal proceedings have been initiated'" (*People v. Slayton* (2001) 26 Cal.4th 1076, 1079). Here, neither Perez nor Barajas had been charged with the crimes in this case at the time they spoke with the jailhouse informants.

2. Perez's and Ruiz's challenges

The admission of Barajas's statements that implicated Perez and Ruiz did not violate Perez's or Ruiz's right to confront witnesses. Under the so-called *Aranda*/*Bruton* doctrine, a defendant's right to confront witnesses is violated when a codefendant's out-of-court statement implicating the defendant is introduced in evidence unless the codefendant testifies (and is

subject to cross-examination) or unless the portions of the statement implicating the defendant are redacted in a non-obvious way. (*People v. Capistrano* (2014) 59 Cal.4th 830, 869 (*Capistrano*); see generally *People v. Aranda* (1965) 63 Cal.2d 518; *Bruton v. United States* (1968) 391 U.S. 123.) Since *Crawford v. Washington* (2004) 541 U.S. 36, 68, a defendant's right to confront witnesses has been interpreted to protect against the admission of out-of-court statements only if those statements are "testimonial." Because "statements unwittingly made to an informant are not 'testimonial' within the meaning of the confrontation clause" (*People v. Arauz* (2012) 210 Cal.App.4th 1394, 1402; *People v. Hajek and Vo* (2014) 58 Cal.4th 1144, 1214), Barajas's statements were not "testimonial," and Perez's and Ruiz's rights of confrontation were not implicated, let alone violated.

Perez's and Ruiz's further argument that the admission of Barajas's statements violates their rights to due process and to present a defense is without merit, for we will not read these broader guarantees to prohibit what the more specific constitutional guarantee (here, the Sixth Amendment right to confront witnesses) permits. Ruiz's fleeting assertion, made for the first time in his reply brief, that Barajas's statements constitute inadmissible hearsay is not only forfeited but is also without merit; Barajas's statements are declarations against his penal interest (Evid. Code, § 1230).

II. Instructional Error

A. Pertinent background

The trial court instructed the jury that it could convict the defendants of Mejia's murder on two theories: (1) that the defendants acted with "malice aforethought," or (2) that the

defendants caused Mejia's death in the course of kidnapping him (that is, under the "felony-murder" rule). The court further instructed the jury that felony-murder liability was appropriate only if "the kidnapping and the act causing the death were part of one continuous transaction" and enumerated seven factors bearing on how to assess "whether the fatal act and the felony were part of one continuous transaction." One of those factors was "[w]hether the fatal act occurred after the felony [of kidnapping] but while one or more of the perpetrators continued to exercise control over the person who was the target of the felony." The court rejected Perez's and Ruiz's request to instruct on the "escape rule"—that is, by telling the jury that "the felony continues only until the perpetrator has reached a place of temporary safety."

B. Analysis

Perez and Ruiz argue that the trial court erred in refusing to give the escape rule instruction, arguing that the giving of such an instruction was all but compelled by *People v. Wilkins* (2013) 56 Cal.4th 333 (*Wilkins*). We independently review claims of instructional error. (*People v. Fiore* (2014) 227 Cal.App.4th 1362, 1378.)

At the outset, we note that this alleged instructional error pertains to the felony-murder instructions alone. The sole felony at issue here—kidnapping—is grounds for first degree murder under the felony-murder rule. (§ 189.) Because the jury found Perez and Ruiz guilty of second degree murder, its verdict necessarily rests on malice aforethought, not on the felony-murder rule. As a result, any error with the felony-murder instructions would appear to be harmless. (See *People v. Perez*

(2005) 35 Cal.4th 1219, 1233 [looking to what jury "necessarily found" in assessing prejudice].)

There is no instructional error in any event.

Under the felony-murder rule, a defendant is guilty of murder if he kills another person while committing an inherently dangerous felony; his intent to commit the felony is legally deemed to be the equivalent of "malice aforethought." (*People v. Bryant* (2013) 56 Cal.4th 959, 965; see generally §§ 187 & 189.) The felony-murder rule also has a "complicity aspect" that deems a "nonkiller[] liab[le] for a killing 'committed [by another] in the perpetration' of an inherently dangerous felony." (*People v. Cavitt* (2004) 33 Cal.4th 187, 193, 196 (*Cavitt*).) A nonkiller is guilty of murder under the felony-murder rule only if there is "both a *causal* relationship and a *temporal* relationship between the underlying felony and the act resulting in death." (*Id.* at p. 193.) A "causal relationship" exists as long as there is a "logical nexus, beyond mere coincidence of time and place, between the homicidal act and the underlying felony the nonkiller committed or attempted to commit." (*Ibid.*) And a "temporal relationship" exists if "the felony and the homicidal act were part of one continuous transaction." (*Id.* at pp. 193, 207.)

In this case, the trial court instructed the jury that it must find that Mejia's kidnapping and his death were part of a "continuous transaction" before it could hold Perez or Ruiz liable for murder under the felony-murder rule, and further explained that it could consider whether *any* of the defendants still had control over Mejia. This was correct under *Cavitt*. There, three people burglarized a house and tied up a woman inside the house. Two of the burglars tied up the third (to make it look like the third was also a victim), and left the third beside the tied-up

woman, who was her stepmother. The stepmother died at some point thereafter. The People charged the two burglars who had left the scene with the woman's murder, and they argued that the trial court erred in instructing the jury that they could be liable under the felony-murder rule because it was possible that the third robber killed her stepmother on her own and after they had left the scene. *Cavitt* rejected their argument, concluding that the trial court did not err in instructing the jury that the liability of the nonkillers (that is, the two burglars who left) under the felony-murder rule continued until "all perpetrators [had] relinquished control over the victim[,] . . . and have effected an escape." (*Cavitt*, *supra*, 33 Cal.4th at p. 208.) The trial court here gave the same instructions affirmed in *Cavitt*.

Perez and Ruiz argue that this case is instead controlled by *Wilkins*. We disagree. In *Wilkins*, the defendant was convicted of felony murder for a death that occurred after he committed a burglary, and one of the items he stole (a stove) fell out of his truck and killed someone. (*Wilkins*, *supra*, 56 Cal.4th at p. 337.) Our Supreme Court held that the trial court erred in not instructing the jury on the escape rule, reasoning that "the escape rule applies 'in the context of certain ancillary consequences of the felony' [citation]" and "that one of those ancillary consequences is the perpetrator's liability under the felony-murder rule." (*Id*. at pp. 342-343.) Significantly, *Wilkins* took pains to distinguish and uphold *Cavitt*, explaining that *Cavitt* dealt with the "the complicity aspect of the felony-murder rule"—not, as in *Wilkins*, "whether 'a *killer* [is] liable for first degree murder if the homicide is committed in the perpetration of a . . . burglary.'" (*Ibid.*, quoting *Cavitt*, *supra*, 33 Cal.4th at p. 196, original italics.) Because this case, like *Cavitt*, involves

Perez's and Ruiz's liability under the felony-murder rule for Barajas's killing of Mejia (the complicity aspect), and not Barajas's liability for that killing, *Cavitt* and not *Wilkins* controls.

This result makes sense as well. As *Wilkins* noted, "the escape rule establishes the 'outer limits of the "continuous-transaction" theory' [citation]" where there is a single defendant; when the defendant's commission of the underlying felony is over, any death that occurs thereafter is necessarily outside the scope of the felony-murder rule. (*Wilkins*, *supra*, 56 Cal.4th at p. 345.) However, where there are multiple defendants, the fact that *some* of the defendants may have reached a place of safety cannot be equated with the conclusion of the felony or with the "outer limits" of the scope of liability under the felony-murder rule. Indeed, as the trial court noted in this case, Mejia was still being kidnapped by Barajas at the time of his death, even though Perez and/or Ruiz may have reached a place of temporary safety. Instructing the jury that Perez's and Ruiz's liability for Mejia's death ended, just because *they* had reached a place of safety, but while their fellow gang member still held Mejia captive, would unduly curtail the scope and reach of felony-murder liability.

III. Sufficiency of the Evidence

All three defendants argue that there is insufficient evidence to support their convictions for Mejia's murder. In evaluating these claims, our task is to """"review the whole record in the light most favorable to the judgment to determine whether it contains substantial evidence—i.e., evidence that is credible and of solid value—from which a rational trier of fact could have found the defendant guilty beyond a reasonable doubt."""" (*People v. Nguyen* (2015) 61 Cal.4th 1015, 1054-1055.)

A. Perez's and Ruiz's convictions for second degree murder

Perez and Ruiz contend that (1) the jury's verdicts indicate that it convicted them of second degree murder based upon a finding that *they* acted with malice aforethought (rather than on a felony-murder theory), and (2) there is insufficient evidence that Perez or Ruiz caused Mejia's death because it was Barajas's bludgeoning that caused Mejia's death.[2] Although a jury's return of inconsistent verdicts is no basis to overturn them (e.g., *People v. Lewis* (2001) 25 Cal.4th 610, 655-656), we agree with Perez and Ruiz, for the reasons noted above, that the jury's verdict does not appear to be based upon the felony-murder rule. However, we disagree with Perez and Ruiz that there is insufficient evidence of causation.

A defendant causes a person's death if his conduct was a "substantial factor contributing" to the death. (*People v. Sanchez* (2001) 26 Cal.4th 834, 847.) Conduct is a substantial factor even if another person *concurrently* causes the death by engaging in "conduct [that is also] . . . a substantial factor" contributing to the death. (*People v. Jennings* (2010) 50 Cal.4th 616, 643.) Where there are concurrent causes of death, it does not matter "'which of the concurrent causes was the principal or primary cause of death.'" (*Jennings*, at p. 643, quoting *People v. Catlin* (2001) 26 Cal.4th 81, 155.) A defendant's conduct also can be a

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[2] Ruiz also contends that there was insufficient evidence tying him to the crime. However, Barajas in his statement to the jailhouse informants identifies Ruiz as one of the people who beat Mejia. What is more, the day after the beating, Perez and Ruiz were bragging about the beating: Perez said "we got him," and Ruiz chimed in with, "yeah we did that woo woo" "because they shot [Gallegos]."

"substantial factor contributing" to the death even if another person's intervening act *subsequently* causes the death, as long as the "'intervening cause is a normal and reasonably foreseeable result'"—that is, as long as "'the defendant should have foreseen the possibility of some harm of the kind which might result from his act.'" (*People v. Cervantes* (2001) 26 Cal.4th 860, 871.) It is only if the intervening act is so "'extraordinary and abnormal'" as to be "'unforeseeable'" that courts will sever the causal chain and absolve the defendant of criminal liability for the death. (*Ibid.*)

In this case, substantial evidence supports the jury's finding of causation. To begin, there is evidence to support a finding that the beating inflicted by Perez and Ruiz and the bludgeoning inflicted by Bajaras were concurrent causes of Mejia's death. The coroner who examined Mejia's body opined that Mejia died from the "combined effects of multiple injuries" to his head caused by blunt force. Perez and Ruiz stomped on Mejia's head and Barajas hit Mejia in the head with the sack of cinder block pieces. Alternatively, there is evidence to support a finding that Barajas's act in "finish[ing] the job" by bludgeoning Mejia to death was a "possibility" Perez and Ruiz should have foreseen. Perez and Ruiz took Mejia to the empty lot where their fellow gang members hang out, and it is reasonable to foresee that a fellow gang member at the lot (such as Barajas) would take efforts to ensure that evidence linking the gang to the murder (such as Mejia's testimony, had he recovered, and the "V" carved in his chest) was destroyed. (Cf. *People v. Fiu* (2008) 165 Cal.App.4th 360, 374, fn. 19 [superseding cause where random third party "exploit[s] the situation created by [the defendant]"].)

B. Barajas's conviction for first degree murder

Barajas asserts that there is insufficient evidence to convict him of first degree murder (1) if his statements to the jailhouse informants are excluded, and (2) due to the conflicting evidence regarding the cause of Mejia's death. We reject Barajas's first argument because, as we conclude above, his statements were properly admitted. We reject Barajas's second argument because, as we also conclude above, there is substantial evidence that each of the three defendants concurrently contributed to Mejia's death.

IV. Sentencing

A. Multiple punishment

Perez and Ruiz assert that the trial court erred in imposing consecutive sentences for murder and kidnapping under section 654 and the Fifth Amendment's double jeopardy clause banning multiple punishments.

Perez and Ruiz are essentially arguing that they are being punished twice for a single indivisible course of conduct, because "double jeopardy precludes a court from imposing cumulative sentences for the same conduct only when the Legislature fails to specifically authorize such punishment." (*People v. Andrade* (2015) 238 Cal.App.4th 1274, 1309.) Because section 654 authorizes multiple punishments under certain circumstances, the viability of Perez's and Ruiz's double jeopardy claim turns on whether the trial court violated section 654.

Section 654, subdivision (a) provides that a court may not punish a defendant for the same "act or omission" more than once, even if that act is the basis for multiple convictions. Whether a course of conduct is a divisible transaction that can be punished under more than one statute depends on "the intent and objective" of the defendant: "'"If [both] offenses were incident

to one objective, the defendant may be punished for any one of such offenses but not for more than one.'"' (*Capistrano*, *supra*, 59 Cal.4th at p. 885.) But if a defendant commits various acts, even simultaneously or in direct succession to one another, with independent objectives that are "'not merely incidental to each other,'" section 654's ban does not apply and he may be separately punished for each offense. (*People v. Rodriguez* (2015) 235 Cal.App.4th 1000, 1005 (*Rodriguez*).) Whether the defendant had more than one criminal objective is a factual finding made by the trial court, which we will uphold if it is supported by substantial evidence. (*People v. Chung* (2015) 237 Cal.App.4th 462, 469.)

Substantial evidence supports the trial court's implicit finding that the kidnapping and murder were committed with different intents and objectives. Mejia was beaten in retaliation for his earlier shooting of Gallegos, but killed to enable the beaters to avoid detection. These are separate intents. Perez and Ruiz contend that the jury's special-circumstance finding that the murder occurred during the commission of the kidnapping compels a finding that the kidnapping and murder were committed with the same intent and objective. We disagree. The fact that the homicide occurred *during* the kidnapping does not necessarily mean they were committed with the same intent and objective. (*Rodriguez*, *supra*, 235 Cal.App.4th at p. 1005 [simultaneous acts with different intents may be separately punished].)

B. Clerical errors

Perez and Ruiz also raise clerical errors as to their respective sentences. The People agree there was error.

1. Perez

The trial court sentenced Perez to life in prison for his torture conviction and specified that pursuant to section 186.22, subdivision (b)(5), he serve a minimum of 15 years before becoming eligible for parole. The minute order and abstract of judgment on this count inaccurately reflect a sentence of life plus a 15-year enhancement. Perez's abstract of judgment should be corrected to reflect a term of life in prison, with parole eligibility only after he serves 15 years.

2. Ruiz

At sentencing, the trial court ordered Ruiz to pay a $10,000 restitution fine (§ 1202.4, subd. (b)), a $40 court security fee (§ 1465.8, subd. (a)(1)), and a $30 criminal conviction assessment (Gov. Code, § 70373), and then added "that's per count." Following sentencing, the clerk of the superior court prepared two abstracts of judgment—one for his murder conviction and one for his kidnapping conviction. Each abstract imposed a $10,000 restitution fine plus a court security fee of $80 (double the per-conviction amount) and a criminal conviction assessment of $60 (double the per-conviction amount).

Ruiz argues that the abstracts improperly doubled the restitution fine and fees authorized by law (see § 1202.4, subd. (b) ["[i]n every *case* . . . the court shall impose a separate and additional restitution fine," italics added]; § 1465.8, subd. (a)(1) [providing for court security fee of $40 "on every *conviction*," italics added]; § 70373 [providing for $30 criminal conviction assessment "on every [felony] *conviction*," italics added]). He is right. The total amount of the restitution fine is $10,000 for both counts, the total amount of the court security fee is $80 for both

counts, and the total amount of the criminal conviction assessment is $60 for both counts.

DISPOSITION

Perez's abstract of judgment is ordered amended to reflect that he is sentenced to life in prison, with parole eligibility after he serves 15 years. Ruiz's abstract of judgment is ordered amended to reflect that he is to pay a $10,000 restitution fine, $40 court security fees per count, and $30 criminal conviction assessment fees per count—for an overall total of a $10,000 fine plus an $80 court security fee plus a $60 conviction assessment fee.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
HOFFSTADT

We concur:

_____, Acting P. J.
ASHMANN-GERST

_____, J.*
GOODMAN

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