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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS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 FIVE

THE PEOPLE, Plaintiff and Respondent, v. RAKEEM J. WILLIAMS, Defendant and Appellant.	B272000 (Los Angeles County Super. Ct. No. TA137352)

APPEAL from orders of the Superior Court of Los Angeles County, Allen J. Webster, Jr., Judge. Affirmed, with directions.

Allen G. Weinberg, 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, Senior Assistant Attorney General, Victoria B. Wilson and Scott A.

Taryle, Supervising Deputies Attorney General, Kathy S. Pomerantz, Deputy Attorney General, for Plaintiff and Respondent.

The jury convicted defendant and appellant Rakeem J. Williams in count 1 of willful, deliberate, and premeditated murder (Pen. Code, § 187, subd. (a)),[1] and in counts 2 and 3 of willful, deliberate, and premeditated attempted murder (§§ 664/187, subd. (a)).[2] As to all three counts, the jury found true gang enhancement allegations pursuant to section 186.22, subdivision (b)(1)(C). It also found true personal use firearm allegations pursuant to section 12022.53, subdivisions (b) through (d), in count 1, and use of a firearm by a principal pursuant to section 12022.53, subdivisions (b) and (c), in counts 2 and 3.

Defendant was sentenced to 85 years to life in prison. In count 1, the trial court imposed a sentence of 25 years to life, plus 25 years to life pursuant to section 12022.53, subdivision (d). In count 2, the court imposed a consecutive sentence of 15 years to life, plus 20 years to life under section 12022.53, subdivision (c). The court imposed a concurrent sentence of 15 years to life in count 3, with a

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

[2] Defendant was found not guilty in count 4 of shooting at an inhabited building (§ 246).

concurrent sentence of 20 years to life pursuant to section 12022.53, subdivision (c).[3] Sentences were imposed and stayed on the remaining firearm use allegations.

Defendant contends that the trial court abused its discretion in denying his motion for mistrial following the outburst by a key prosecution witness, and that his constitutional right to confrontation was violated when the prosecution's gang expert relayed testimonial hearsay to the jury. The parties agree that errors in the trial court's pronouncement of sentence and errors in the abstract of judgment and minute order with respect to sentencing enhancements and restitution require correction.

We order that the abstract of judgment and minute order be amended in accordance with our opinion, but otherwise affirm the trial court's judgment.

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[3] The trial court incorrectly pronounced the enhancements in counts 2 and 3 as "20 years to life," however, they are correctly listed in the minute order and abstract of judgment as terms of 20 years, so no correction is necessary. (See § 12022.53, subd. (c).)

FACTS[4]

On the evening of December 24, 2014, Harrington McFrazier III was outside of his father's house, preparing to help his sister Jasmine Bolden load Christmas presents into her car. Bolden was standing near McFrazier, securing her daughter in a child safety seat, when a car drove up the street and parked just south of them. Defendant and another person got out of the car and moved in McFrazier's direction. Defendant then ran into the street and fatally shot McFrazier (count 1). Bolden saw defendant look at McFrazier and say, "You bitch ass nigga." Bolden made eye contact with defendant. Defendant entered the passenger side of the car, which headed down the street. A few houses away, Bolden's husband Ronald was pushing their neighbor Wanda Tate's stalled car into the driveway. Tate was also outside with her son Brandon Davis, and Davis's five-year-old nephew. The car containing defendant pulled over. Someone in the vehicle opened fire on Tate and Ronald (counts 2 and 3). Davis laid on his nephew to shield him from the gunfire.

On January 12, 2015, Bolden saw a photograph of Campanella Park Piru gang members on a social media website. She recognized defendant in the photograph.

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[4] We provide only a brief summary of the relevant facts. Defendant does not argue that the evidence is insufficient to support his conviction of the underlying charges.

Bolden took a screenshot of the photo, which she gave to detectives. She identified defendant in a six-pack photographic line-up on January 22, 2015.

Defendant was arrested on January 23, 2015, after police pulled him over for traffic violations. The arresting officers were unaware that defendant had been identified in connection with a murder. They smelled marijuana wafting from the car and initiated a search. The officers noticed that the air conditioning vent in the car was out of place. They removed the vent and discovered a Desert Eagle .45 handgun inside. Although defendant alleged that the car belonged to his girlfriend, detectives later learned that he had recently purchased it and changed the license plates without notifying the Department of Motor Vehicles.

DNA taken from the interior of the air conditioning vent matched defendant as a major contributor. Ballistics testing revealed that eight of the bullet casings found at the scene of McFrazier's murder had been fired from the handgun discovered in the vent. A bullet fragment taken from McFrazier's body had also been fired by the gun found in defendant's car.

DISCUSSION

Witness Outburst

Bolden was called as a prosecution witness. During her testimony the prosecutor played a video recorded on the

evening of the murder, which depicted defendant firing a gun multiple times before getting into a car and leaving the scene. Afterwards, Bolden burst out:

"I can't do it. He killed my brother. That's who did it. I can't do that. I can't do it.

"You killed my brother. You killed my brother. I'll never forget his face. I'll never forget his face. I'll never forget his face. I'll never forget his face. I'll never forget his face."

Bolden began crying and left the witness stand. The trial court immediately stopped the trial and ordered the jurors to the jury room.

Defense counsel moved for a mistrial on the basis of Bolden's outburst. The court proposed questioning the jurors individually to determine whether they could give defendant a fair and impartial trial. Defense counsel objected, arguing it was impossible to know what the jurors thought regardless of what they said. Counsel argued jurors would say what they believed they were supposed to say—that they could give defendant a fair trial. The court decided to speak with the jurors individually on the record, and allowed the parties to question them.

All of the jurors stated that Bolden's outburst would not affect their ability to give defendant a fair trial, and that they did not find Bolden's testimony any more or less credible because of it. Several jurors expressed sympathy for Bolden's situation, and noted that she appeared to be convinced of the truth of her own statements. This did not

taint their view of the facts, however. The outburst reflected Bolden's feelings, not her veracity.

After questioning the jury, the trial court denied defendant's motion for mistrial. It reasoned that although the jurors had expressed sympathy, "each and every juror indicated that they could be fair and impartial, open minded." Before calling in the jury, the court admonished Bolden at length that it would not tolerate further outbursts from her. When trial resumed, the court instructed the jury under CALCRIM No. 101 with respect to jury conduct, and No. 226 with respect to witness credibility before continuing with Bolden's testimony.

Analysis

We review a ruling denying a motion for mistrial for abuse of discretion. (*People v. Ayala* (2000) 23 Cal.4th 225, 282.) A motion for mistrial should be granted only when "'"a party's chances of receiving a fair trial have been irreparably damaged."'" (*Ibid.*) "Juries often hear unsolicited and inadmissible comments and in order for trials to proceed without constant mistrial, it is axiomatic the prejudicial effect of these comments may be corrected by judicial admonishment; absent evidence to the contrary the error is deemed cured." (*People v. Martin* (1983) 150 Cal.App.3d 148, 163 (*Martin*).)

Defendant claims that "[w]hile all of the jurors were able to state they could be fair and impartial, their

comments show they were prejudiced." He cites to several examples in the record where various jurors said that they could understand Bolden's feelings under the circumstances. But these same jurors consistently differentiated between understanding how Bolden would feel about seeing her brother killed, and allowing that sympathy to cause them to believe defendant committed the murder. Juror No. 1 described the outburst as "just something I have to look over to make a decision." He was determined to make his decision "according to the law." Juror No. 3 "respect[ed] [Bolden] had some emotions, she had an outburst, and you know, it's understandable for whatever she feels that she saw or felt in that moment." Juror No. 3 could "absolutely" give defendant a fair trial. Juror No. 4 did not have any reaction to the outburst when it occurred. The juror explained, "It's normal to have emotions. [¶] . . . [¶] But then we have to, you know, give the judgment whatever it is, you know, based on the facts." Juror No. 6 noted that "[i]t was quite an outburst," but that "[i]t didn't really personally affect me." Juror No. 6 believed Bolden was "very hard headed about this [case]." She described the outburst as a manifestation of Bolden's intense feeling, with no bearing on the truth: "It could be that [Bolden] just wants someone to pay for [her brother's death], or it could be that she's really, oh, I know it's him. So for me it's just -- that's just the situation. That's just how she feels." Juror No. 10 said the outburst did not make him any more likely to excuse contradictions between Bolden's testimony and other

evidence. During Bolden's testimony, Juror No. 10 noticed several discrepancies between her story and the video played by the prosecution, which he did not discount simply because Bolden became overly emotional.

Based on this record, the trial court could reasonably conclude that defendant's chances of receiving a fair trial were not irreparably damaged by Bolden's outburst. All 15 jurors satisfied the trial court that the possibly tainting events would not affect their deliberations. The trial court instructed the jury with respect to the outburst prior to resuming Bolden's testimony, and there is no indication that the jury misunderstood or failed to follow its instructions.

Defendant's argument that Bolden's outburst had more impact because she was a key prosecution witness is unavailing. In *Martin*, *supra*, 150 Cal.App.3d at pages 162–163, the reviewing court affirmed the trial court's denial of a motion for new trial under nearly identical conditions, explaining as follows: "During the trial a prosecution witness had an emotional outburst in which she told Martin he was guilty. The court questioned each juror individually to determine whether this unsolicited remark would affect their ability to unemotionally and independently evaluate the case. The court was satisfied each juror could ignore the remark and admonished the jury against using the remark for any purpose. Absent any evidence to the contrary, we assume the jury was able to follow the trial court's admonition and disregard the statement. Juries often hear unsolicited and inadmissible comments and in order for

trials to proceed without constant mistrial, it is axiomatic the prejudicial effect of these comments may be corrected by judicial admonishment; absent evidence to the contrary the error is deemed cured. (*People v. Ryan* (1981) 116 Cal.App.3d 168, 184; *People v. Seiterle* (1963) 59 Cal.2d 703, 710, cert. den. 375 U.S. 887; *People v. Sandoval* (1970) 9 Cal.App.3d 885, 888.)"

The approach of the trial court here is consistent with the holding in *Martin*. The trial court's factual findings are supported by the record, and the court's conclusion that a mistrial was unwarranted was not an abuse of discretion.

Expert Testimony

It was alleged that defendant committed the charged offenses for the benefit of the Campanella Park Piru gang, of which he was a member. To prove the allegation, the People were required to establish that Campanella Park Piru was a criminal street gang whose primary activities evidenced a pattern of criminal gang activity. (§ 186.22, subd. (f).) "'A "pattern of criminal gang activity" is defined as gang members' individual or collective "commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of two or more" enumerated "predicate offenses" during a statutorily defined time period. [Citations.] The predicate offenses must have been committed on separate occasions, or by two or more

persons. [Citations.]' [Citation.]" (*People v. Lara* (2017) 9 Cal.App.5th 296, 326–327.)

Relevant Proceedings

At trial, the prosecution introduced certified court dockets evidencing Richard Widby's conviction of robbery, and Dante Daniel Koger's convictions of assault with a deadly weapon and dissuading a witness. After the dockets were admitted without objection, the prosecutor questioned gang expert Los Angeles County Sheriff's Department Detective Nikolai Vavakin as follows:

"[Prosecutor]: I'm going to first start with People's 162, the individual named Richard Widby. Are you familiar with that individual?

"[Detective Vavakin]: Yes.

"[Prosecutor]: And how are you familiar with him?

"[Detective Vavakin]: I reviewed police reports where he was named as a suspect, I talked to arresting deputies and also [the] arresting detective or detective that investigated the crime.

"[Prosecutor]: And do you have an opinion as to whether or not Mr. Widby is a Campanella Park Piru?

"[Detective Vavakin]: Yes, I do.

"[Prosecutor]: And what is your opinion?

"[Detective Vavakin]: That he's in fact a Campanellas Park Piru gang member.

"[Prosecutor]: And is that based on the conversations and the investigation you just previously mentioned?

"[Detective Vavakin]: Yes, and also tattoos.

"[Prosecutor]: Now, I'm going to ask you about People's 163, Dante Daniel Koger. Are you familiar with this individual?

"[Detective Vavakin]: Yes.

"[Prosecutor]: And how are you familiar with him?

"[Detective Vavakin]: I also talked to arresting deputies who arrested him for the crime and also I talked to [the] investigating detective. I reviewed other police documents and I also have knowledge of his moniker.

"[Prosecutor]: And do you have an opinion as to whether or not Mr. Koger is a Campanella Park Piru?

"[Detective Vavakin]: Yes, I do.

"[Prosecutor]: And what is your opinion?

"[Detective Vavakin]: That he is a Campanella Park Piru gang member.

"[Prosecutor]: And again, is that based on the information that you just previously described?

"[Detective Vavakin]: Yes."

Defense counsel briefly cross-examined Detective Vavakin on the issue:

"[Defense counsel]: Now, you were asked about a couple of individuals and prior convictions, a Richard Widby. Am I pronouncing that correctly?

"[Detective Vavakin]: I believe so, yes.

"[Defense counsel]: And Dante Koger.

"[Detective Vavakin]: Yes.

"[Defense counsel]: Have you met either one of these individuals?

"[Detective Vavakin]: No, I have not."

Analysis

Defendant contends that Detective Vavakin's testimony violated his Sixth Amendment right to confront witnesses as interpreted in *People v. Sanchez* (2016) 63 Cal.4th 665 (*Sanchez*). He argues that Detective Vavakin lacked personal knowledge of the crimes alleged to be predicate offenses and the individuals who committed them, and that the detective relayed case-specific testimonial hearsay to the jury when he testified regarding the basis for his opinion that Widby and Koger were Campanella Park Piru gang members. We disagree. Detective Vavakin did not testify to case-specific facts in opining that the men were members of the gang, and *Sanchez* does not require expert witnesses to base their opinions on personal rather than general knowledge.

The defendant in *Sanchez* was convicted of possession of a firearm by a felon, possession of drugs while armed with a loaded firearm, and active participation in the "Delhi" street gang. The jury found that the defendant committed a felony for the benefit of the Delhi gang. (*Sanchez*, *supra*, 63 Cal.4th at pp. 671, 698.) At trial, the prosecution's gang expert testified to specific content contained in a STEP

notice,[5] including Sanchez's statements that he "kicked it" and "got busted with" several members of the Delhi gang. The expert also testified to the details of several contacts between Sanchez and police that were taken from police reports, including: "(1) On August 11, 2007, [Sanchez]'s cousin, a known Delhi member, was shot while [Sanchez] stood next to him. [Sanchez] told police then that he grew up 'in the Delhi neighborhood.' (2) On December 30, 2007, [Sanchez] was with Mike Salinas when Salinas was shot from a passing car. Salinas, a documented Delhi member, identified the perpetrator as a rival gang member. . . . [(3) O]n December 9, 2009, [Sanchez] was arrested in a garage with [two known Delhi members, John] Gomez and . . . Fabian Ramirez. Inside the garage, police found 'a surveillance camera, Ziploc baggies, narcotics, and a firearm.'" (*Id.* at pp. 672–673.) On cross-examination, the expert testified that he had never met Sanchez. He was not present during any of Sanchez's other police contacts. His knowledge of the individual incidents was derived from police reports. (*Id.* at p. 673.)

The *Sanchez* court first held that, under state evidentiary rules, when an expert relays "case-specific"

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[5] Police officers issue "STEP notices" to individuals known to associate with gang members as part of a law enforcement effort to control gang activity. The acronym refers to the California Street Terrorism Enforcement and Prevention Act (§ 186.20 et seq.). (*Sanchez*, *supra*, 63 Cal.4th at p. 672, fn. 3.)

testimony taken from a STEP notice or police report about the defendant's contacts with and admissions to *other* police officers regarding his gang affiliation, such testimony is inadmissible hearsay unless the expert has personal knowledge of the evidence or the evidence has been otherwise properly admitted. (*Sanchez*, *supra*, 63 Cal.4th at pp. 685–686.) The court next held that statements contained in a STEP notice or police report are testimonial hearsay because those documents are sufficiently formal and made for the primary purpose of establishing facts to be used against the defendant at trial. (*Id*. at pp. 696–697.) It reversed the jury's true findings on the street gang enhancements. (*Id*. at p. 699.)

The *Sanchez* court emphasized: "Any expert may still *rely* on hearsay in forming an opinion, and may tell the jury *in general terms* that he did so. Because the jury must independently evaluate the probative value of an expert's testimony, Evidence Code section 802 properly allows an expert to relate generally the kind and source of the 'matter' upon which his opinion rests. . . . There is a distinction to be made between allowing an expert to describe the type or source of the matter relied upon as opposed to presenting, as fact, case-specific hearsay that does not otherwise fall under a statutory exception." (*Sanchez*, *supra*, 63 Cal.4th at pp. 685–686.)

In the case before us Detective Vavakin "relate[d] generally the kind and source of the 'matter' upon which his opinion rest[ed]." (*Sanchez*, *supra*, 63 Cal.4th at p. 686.)

Unlike the expert witness in *Sanchez*, who described police contacts and statements the defendant made in detail, Detective Vavakin did not impart any information regarding the crimes Widby and Koger committed, relate any of the facts or statements contained in the police reports, or recount the substance of any conversations he had with arresting or investigating officers to the jury. He properly identified the sources he relied upon to form his opinion that Widby and Koger were Campanella Park Piru gang members in a general manner. Detective Vavakin's testimony was admissible under state evidentiary rules and nontestimonial in conformance with the Sixth Amendment's requirements.

Gang and Firearm Enhancements

As relevant here, section 12022.53 establishes three enhancements for use of a firearm in the commission of enumerated felonies: 10 years under subdivision (b) for personal use of a firearm; 20 years under subdivision (c) for personal and intentional discharge of a firearm; and 25 years to life under subdivision (d) for personal and intentional discharge of a firearm causing great bodily injury, or death, to any person other than an accomplice. These subdivisions apply to a defendant who is a principal in the commission of the offense where it has been pleaded and proven that the defendant violated section 186.22 and a principal committed any of the acts specified in section 12022.53, subdivisions (b)–(d), as was the case here. (§ 12022.53, subd. (e)(1).)

"Penal Code section 186.22, subdivision (b) establishes alternative methods for punishing felons whose crimes were committed for the benefit of a criminal street gang. Section 186.22, subdivision (b)(1)(C) . . . imposes a 10-year enhancement when such a defendant commits a violent felony. Section 186.22[, subdivision](b)(1)(C) does not apply, however, where the violent felony is 'punishable by imprisonment in the state prison for life.' (Pen. Code, § 186.22, subd. (b)(5).) Instead, section 186.22, subdivision (b)(5) . . . applies and imposes a minimum term of 15 years before the defendant may be considered for parole." (*People v. Lopez* (2005) 34 Cal.4th 1002, 1004 (*Lopez*).) Section 186.22, subdivision (b)(5) applies to defendants convicted of first degree murder and sentenced to state prison for a term of 25 years to life, even when the minimum parole eligibility term in that subdivision "will have no practical effect," because the minimum parole eligibility term in the murder statute is longer. (*Id.* at pp. 1008–1009.)

Where firearm and gang enhancements have both been found true, only the firearm enhancement may be imposed, absent a finding that defendant personally used or discharged a firearm in the commission of the offense. (§ 12022.53, subd. (e)(2).)

Clerical Errors

Defendant contends, and the Attorney General concedes, that the minute order and abstract of judgment

incorrectly indicate the trial court imposed and stayed 10-year gang enhancements under section 186.22, subdivision (b)(1)(C), as to all three counts. We agree that the indications in the abstract of judgment and minute order must be corrected to reflect the court's oral pronouncement. (See *People v. Mitchell* (2001) 26 Cal.4th 181, 185 (*Mitchell*) [trial court's oral pronouncement controls, and abstract of judgment must be amended when in conflict].)

Our review of the record reveals that the abstract of judgment incorrectly indicates the firearm enhancements of 25 years to life in count 1 (§ 12022.53, subd. (d)), and 20 years in count 3 (§ 12022.53, subd. (c)), were imposed pursuant to section 12022.53, subdivision (b). These discrepancies between the trial court's oral pronouncement at sentencing and the abstract of judgment must also be corrected to properly reflect that the trial court imposed an enhancement of 25 years to life in count 1 pursuant to section 12022.53, subdivision (d), and imposed and stayed an enhancement of 20 years in count 3 pursuant to section 12022.53, subdivision (c). (See *Mitchell*, *supra*, 26 Cal.4th at p. 185 [oral pronouncement controls].)

Errors in the Pronouncement of Sentence

As the trial court impliedly recognized, section 186.22, subdivision (b)(5)—not section 186.22, subdivision (b)(1)(C)—is applicable in all three counts because both murder and

attempted murder may be penalized by imposition of life sentences. (See *Lopez*, *supra*, 34 Cal.4th at pp. 1006–1011.) As the Attorney General argues, because the jury found that defendant personally used and discharged a firearm in the commission of the murder, both section 12022.53, subdivision (d), and section 186.22, subdivision (b)(5), should have been orally imposed in count 1, although section 186.22, subdivision (b)(5) will have no practical effect on defendant's sentence. (See *Lopez*, *supra*, 34 Cal.4th at pp. 1006–1011 [section 186.22, subdivision (b)(5) applies to sentences of 25 years to life as well as straight life sentences].) In counts 2 and 3, however, the jury found only that a principal—rather than defendant personally—used and discharged a firearm, so the 15-year minimum parole period may not be imposed in addition to the 20-year term for the firearm enhancement in each of those counts. The abstract of judgment must be modified to reflect terms of life with the possibility of parole as to counts 2 and 3, rather than sentences of 15 years to life. (See § 664, subd. (a) [punishment for willful, deliberate, and premeditated attempted murder is life in prison with the possibility of parole].)

Restitution

We agree with the parties that the abstract of judgment must be modified to reflect the trial court's oral pronouncement of restitution. (See *Mitchell*, *supra*, 26

Cal.4th at p. 185.) In section 9b, the box for "victim(s)" should be checked to indicate that the total amount of $8,648.50 is to be apportioned between the victim's family and the restitution fund. (See *ibid.* [appellate court has the authority to correct clerical errors at any time].)

DISPOSITION

We order that the trial court amend the abstract of judgment as follows:

(1) Strike the indications that 10-year gang enhancements were imposed and stayed in counts 1-3;

(2) Correct the sentences in counts 2 and 3 to reflect that sentences of life with the possibility of parole are imposed in both counts;

(3) Correct the enhancement term in count 1 to reflect that the 25-year-to-life term was imposed pursuant to section 12022.53, subdivision (d);

(4) Correct the enhancement term in count 3 to reflect that the concurrent term of 20 years was imposed and stayed pursuant to section 12022.53, subdivision (c); and

(5) Check the box for "victim(s)" in section 9b to indicate that the total restitution amount of $8,648.50 is to be apportioned between the victim's family and the restitution fund.

The court is further ordered to strike the indications that 10-year gang enhancements were imposed and stayed in counts 1-3 from the minute order. The trial court shall

forward a certified copy of the corrected abstract to the Department of Corrections. The judgment is otherwise affirmed.

KRIEGLER, Acting P.J.

I concur:

LANDIN, J.*

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

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BAKER, J., Concurring

I join the majority opinion's discussion of defendant Rakeem Williams's (defendant's) contentions concerning the ruling on his motion for mistrial and the commission of certain sentencing errors.

I also agree the majority opinion reaches the correct result with regard to defendant's Confrontation Clause contention, but I disagree with the reason given. That the gang expert witness related his testimony concerning the gang predicate offenses in so-called "general terms" is not dispositive. (See, e.g., *People v. Sanchez* (2016) 63 Cal.4th 665, 685-686 (*Sanchez*).) If it were, attorneys could avoid the bar on hearsay merely by artful tailoring of questions (for instance, "From your conversations with other officers, did you learn the defendant is a gang member?" versus "When you asked Officers Smith and Jones whether the defendant was a gang member in preparation for testifying today, what did they tell you?").

Instead, the reason why the gang expert's testimony about the predicate gang offenses and the gang membership of the perpetrators that committed them was not hearsay is because the testimony did not relate "case-specific facts," as

defined in *Sanchez*. (*Sanchez*, *supra*, 63 Cal.4th at p. 676 ["Case-specific facts are those relating to the particular events and participants alleged to have been involved in the case being tried"].) The particular events involved in the predicate offenses and the defendants who committed them were unconnected to the case being tried against defendant.

BAKER, J.