

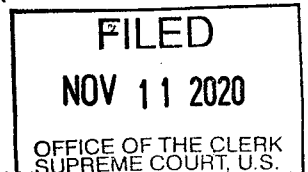
No. 20-6532

IN THE  
SUPREME COURT OF THE UNITED STATES

FERNANDO SANCHEZ JR — PETITIONER  
(Your Name)

vs.

THE PEOPLE — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

California Court of Appeal, Third District  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

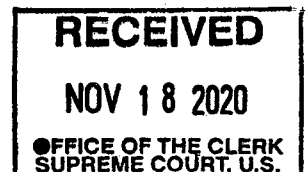
PETITION FOR WRIT OF CERTIORARI

Fernando Sanchez Jr.  
(Your Name)

High Desert State Prison  
P.O. Box 3030 A1-204  
(Address)

Susunville, CA 96127  
(City, State, Zip Code)

N/A  
(Phone Number)



#### QUESTION(S) PRESENTED

Is the time to serve in prison excessive punishable by sentencing consecutive, and should the sentence be reversed pursuant to the penalty phase of trial?

were the jury selection at the State level picked after an oral request to begin to interview potential jurors due to replies given by the people in seats already spoiled the bunch of jury duty prospects?

## LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows: ~~1 Honorable Allen Sumner, Judge (Dept. 42) Sacramento County Superior Court  
2 Gregory Foster, Asst. Public Defender office of the Public Defender  
3 Court of Appeal THIRD APPELLATE DISTRICT, ROBIE, Acting P.J., Butz, Mauro, J.  
4 ATTORNEY GENERAL'S OFFICE, APPEALS DEPARTMENT, XAVIER BECERRA, MICHAEL P. FARRELL, KATHRYN L. ALTHIZER~~

## RELATED CASES

The State

- People v. Vidaurri (1980) 103 Cal. App. 3d 450
- People v. Perez (1979) 23 Cal. 3d 545
- People v. Latimer (1993) 5 Cal. 4th 1203 @ 1211.
- United States, Appellee, -v- Marquis Estimable, Breeyan Scott, Defendants James Thompson, Defendant-Appellant; 437 Fed. Appx. 23 Sept. 12, 2011
- People, Plaintiff and Respondent, v. Joseph Glenn Pope, Defendant and Appellant Supreme Court of California 23 Cal. 3d 412; 590 P.2d 859 Cal. Rptr. 732; 1979 Cal. Lexis February 22, 1979

- Same circumstances but different form

[For other cases, see Certiorari, 3-16, 23-41, in Digest Sup. Ct. 1908; 4-12, in 1918 Supp.; 26-33, in 1923 Supp.]

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## INDEX TO APPENDICES

APPENDIX A Decision of State Court of Appeals

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Review

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## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

People v. Vidaurri

5

Perez, supra

6

Brady vs. Maryland

7

### STATUTES AND RULES

Certiorari - refusal to give full faith and credit to judgement 4. The refusal of a state court to give full faith and credit to a judgement of a Federal court is reviewable in the Supreme Court of the United States by writ of certiorari.

Found 68 LED 885, 265 US 30 KNIGHTS OF PYTHIAS V. Meyer, Headnote/s Classified to U.S. Supreme Court Digest, Lawyers' Edition

### OTHER

Other

## Federal Rules of Appellate Procedure

### VII. General Provisions

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Rule 32. Form of Briefs, Appendices, and other Papers  
text.

Rule 32. Form of Briefs, Appendices, and other  
Papers

(a)

(1) *Reproduction*

(c) ..., and tables may be reproduced by any method that results in a good copy of the original; a glossy finish is acceptable if the original is glossy.

(13) *Binding*, The brief must be bound in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when opened.

(14) *Paper size, Line spacing, and Margins*

8½x11 paper double spaced but quotes more than two lines long may be indented and single spaced. Heading and foot notes may be single spaced. Margin at least 1 inch on all sides.

(15) *Type face* Either a proportionally spaced or a monospaced face may be used.

## Rule 32.1 Citing Judicial Dispositions

(a) Citation Permitted. A court may not prohibit or restrict the citation of federal judicial opinions, orders, judgments, or other written dispositions that have been:

(i) designated as "unpublished," "not for publication," "nonprecedential," "not precedent," or the like; and (ii) issued on or after January 1, 2007.

(b) Copies Required. If a party cites a federal judicial opinion, order, judgment, or other written disposition that is not available in a publicly accessible electronic database, the party must file and serve a copy of that opinion, order, judgment, or disposition with the brief or other paper in which it is cited.

HISTORY: As added April 12, 2006, effective December 1, 2006.

IN THE  
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.



## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No.   A  .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 5-28-2020.  
A copy of that decision appears at Appendix   A  .

☒ A timely petition for rehearing was thereafter denied on the following date: 8-12-2020, and a copy of the order denying rehearing appears at Appendix   D  .

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No.   A  .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

#### CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

I've exhausted my Constitutional rights. The victim in the court case hypothetically in Appellate District is I. The constitution allows freedom of speech. Already, my native idiom almost austere. The more important thing is I have the right to speak for myself. The one right I believe is protected under the 1st ammendment. For example, October 14, 1967 notice appropriately recognized the First Ammendment protects freedom of speech, the right peaceably assemble.

Statutory provisions are parameters the kind 3 judges at the previous level of ruling a decision made. The King of Britian during relief efforts agreed that a Certiorari was the answer to conflict. That broadest definition for a no legal status person even more encarcerated.

## STATEMENT OF THE CASE

To keep with tradition petitioner attempts to advise the concerned authority in charge a material received on <sup>put in the mail</sup> and for the purpose of self representation; date August 18 th. 2020.

In theory the root of the problem stems from an erroneous sentence to remand me Fernando Sanchez Jr. inmate identification number BI3613 a Cal crim. investigation consisted of reading the decision that took place before the honorable judge A. Sumner mediated between district attorney and trial lawyer. As the argument type of written response improves like a competent defense attorney it is also my ending at the end of the paragraph

number 5 that again I am familiar. I declare that unwarranted in the social studies use a different vocabulary; however, law will be referenced where possible.

While the record of appeal reflects on a trial; time lasted several days and over flowed in the next year. When I read the opposition to sentencing too prison the one question came to further the complaint made within lawyers' narrative of my life. Fruition is reason for ranges of wishful thinking. For example, I expected to read a one side, based on lawyer and client confidential discussion; what was given to self-represent. Please see the appendix

A professional lawyer inputs line number or #  
 on the page to share information. For this paper  
 I will divert((is i turn aside; deflect) the complex  
 and simplify the course of conduct that took  
 me back to the night of the incident. I single  
 mindedly attempted to leave a accident, for follow-  
 ing unforeseen probabilities or as referenced K.  
 SHEEHY expresses, "was readily explainable  
 ... and who feared... shoot and kill him...."

the principal objective, for description of the  
 physical abuse that I suffered. (p. 8) To  
 increase the odds of finding a case please  
 see appendix

Dissimilar to the comparison made by the Attorney General of California where as I'm being likened to a court case decided.

First, the direct author said, "The trial court issued its final ruling" (p 16) I was sentenced to answer for crimes that evolved from run in with the law. Conversely, my intent to leave a combative crash site where off duty officers were deployed, following a dog doing his job.

By the merit of court and a second opinion where X. Becerra held with the courts;

sentence phase. I was in the department number 42, and heard the argument. The same author exzerts, "In determining whether

multiple crimes are part of a single purpose

for any one of such offenses but not for more

than one. <sup>""</sup> (Neal, at p. 19.), so what's going on

above the direct information Becerra forwards

the information, but leaves out the court could

had chosen the favorable consequence for acts

punishable; new case log as a basic sentence.

"In determining whether multiple crimes are

part of a single purpose or plan, courts typically

'analyze the evidence to determine whether

all the offenses committed were part of the

defendant's original plan or some were an

afterthought or acts committed in response to

unforeseen developments. <sup>""</sup> (People v. Vidaurri

(1980) 103 Cal. App.3d 450, 465.) "But courts have cautioned against viewing a defendant's intent or objective too broadly or amorphously."

(Perez, supra, 23 Cal.3d at p. 552.) 'To accept... a broad, overriding intent and objective to preclude punishment for otherwise clearly separate offenses would violate the statute's purpose to insure that a defendant's punishment will be commensurate with his culpability.... lesser punishment.' " (Ibid., internal citations omitted.

)" (p. 17) The most important, piece of the pie is as the vertical stages taking the stand remained not the wisest thing to do. Spectators viewed the advancement of the people more



over more better rules and regulations had adopted with jurisdiction on a 2 sided legal system in California state court. Finally, the law allowed in court as one case exercised discreet admittance "x...the Maryland Court of Appeals held that suppression of the evidence by the prosecution denied petitioner due process of law. (Brady vs. Maryland 373 us 83)

Before sentencing on the date of January 18 2019; the sentencing memorandum was put forth, but the big day of when we lawyer, defense attorney, district attorney and I narrowed the consequences of my being at a crime scene. Until this day

I maintain innocent because everyone sided with the probation officers recommendation, please see attachment and how the lengthy sentence was determined. For further examination on excessive sentences (*Golinveaux v. United States*, 915 F.3d 564). The prison sentence could be set. As for violation of a fixed term wider division of state and federal lead to one ammendment relevant to the 14th ammendment non usual circumstance/s let the lawyer enforce the number #1 right to liberty under the states ammendment.

For all intents and purposes the 2nd discrepency that I foresee on grounds

of dismissal was "...based on answers given  
by jurors #<sup>omited</sup> and #<sup>omited</sup>, as fully stated on  
the record. The court heard oral argument  
and DENIED the request." (p.4) Because  
these last minute descriptions of the  
court room I appreciate referenced law and  
to I now bring fourth or for the content  
of the similar convictions. A Batson challenge  
lead to a real meritous reason to fire  
jury and start over." Defendant challenged  
his conviction on the grounds that the  
district court erred in refusing his request  
to strike a juror for cause, ~~for~~ rejecting  
his 'Batson' challenges, and instructing

the jury." At the time of the conversation that was conducted several elements fit the hope court at the actual jury selection brought up crime in both of the detained and community aspects of that phase. When an alleged felony charge is pending and court is in progress the defendant is subject to hearing and seeing a courtroom with the right to remain silent. Moreover, "The jury found appellant guilty of second degree robbery. [Held? to state sentence]... appellant was sentenced to state prison. Crime is a provable thing. Accidental or intentional A limitation has to be settled including

the beginning and stop at a comprehensive  
end, for the research of law.

## works cited

sheehy, D. Kevin In the COURT OF APPEAL of  
the State of CALIFORNIA THIRD APPEL-  
LATE DISTRICT: APPELANT'S PETITION  
FOR REHEARING

Becerra, Xavier In the COURT of APPEAL of the  
State of CALIFORNIA THIRD APPELLATE  
DISTRICT: RESPONDENT'S BRIEF

#### REASONS FOR GRANTING THE PETITION

The petition should be granted for the reversal of the consecutive years to spend in prison under section 654.

Provide the most time of one of the crimes.

The prosecution showed an argument the whole court warrant and collectively the police and district lawyers maliciously prosecuted. disregarded any motion to forward law in my favor. To what I'm unsatisfied.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Fernando Luna Jr.

Date: 11-9-2020



SUPREME COURT  
FILED

AUG 12 2020

Court of Appeal, Third Appellate District - No. C088733 Jorge Navarrete Clerk

S263087

Deputy

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

---

THE PEOPLE, Plaintiff and Respondent,

v.

FERNANDO SANCHEZ, JR., Defendant and Appellant.

---

The petition for review is denied.

CANTIL-SAKAUYE

Chief Justice

Appendix D

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Sacramento)

----

THE PEOPLE,

Plaintiff and Respondent,

v.

FERNANDO SANCHEZ, JR.,

Defendant and Appellant.

C088733

(Super. Ct. No. 17FE017119)

Defendant Fernando Sanchez, Jr., claims that the trial court erred in failing to stay execution of his sentence pursuant to Penal Code<sup>1</sup> section 654 for all but one of the charges against him. He also seeks modification of the abstract of judgment. We agree only in part. We find the sentence for one count must be stayed, the abstract of judgment must be modified, and an enhancement imposed under section 667.5 must be stricken. Otherwise, we affirm.

---

<sup>1</sup> Unless otherwise specified, all subsequent statutory references are to the Penal Code.

## FACTUAL AND PROCEDURAL BACKGROUND

This case involves a crime spree by defendant on one day. Around 9:20 p.m., Officer Zachary Yasonia initiated a traffic stop of defendant after noticing defendant erratically driving his truck. Defendant sped up and made a hard turn into the parking lot of a police facility, crashing through a closed entrance gate. Defendant sped through the parking lot hitting at least one parked police car before crashing through another gate to exit the parking lot. Attempting to turn onto the street abutting the parking lot, defendant lost control of his truck and drove into a private residence.

Defendant's actions prompted several officers from the police facility to follow him on foot and in police cars to the residence. Officer Yasonia had also been following defendant through the parking lot to the residence. After defendant crashed and got out of his truck, Officer Yasonia released his canine (Reno) and gave the "apprehension" command. Reno ran toward defendant and bit him as defendant attempted to flee. Another officer saw something shiny in defendant's hand during this struggle and, thinking it could be a weapon, fired several shots at defendant. Defendant escaped through the backyard of the house. Officer Yasonia recalled Reno and discovered the dog was bleeding, left the scene with Reno and another officer, and took Reno to a veterinary hospital where he received several sutures and later recovered. A razor blade was found at the scene with nonhuman blood and hairs similar to Reno's.

Defendant next knocked on Daniel Federwitz's door, about a half a block from the police facility. Defendant first politely asked Federwitz for a ride, which Federwitz declined. After more forcefully renewing his request and Federwitz again declining, defendant began hitting Federwitz with a metal pipe. They started fighting and Federwitz pinned defendant but defendant got away and entered Federwitz's house, locking Federwitz outside.

Defendant emerged from the house after about 10 seconds with the keys to Federwitz's car, wielding a cooking pot. Defendant furiously swung the pot at Federwitz

as defendant tried to get into Federwitz's car. Federwitz hit defendant with the metal pipe defendant had abandoned and tried to prevent defendant from closing the driver's side door. Police officers arrived at Federwitz's house and defendant ran. Officers tackled defendant and arrested him.

A jury found defendant guilty of first degree residential burglary, attempted carjacking, assault with a deadly weapon, vehicular evasion of a pursuing peace officer, vandalism of police property, and striking, beating, or cutting a dog under the supervision of a peace officer. The jury also found true defendant used a weapon in commission of three of the counts and that he did inflict serious physical injury to the dog. The trial court found true prior strike allegations (§ 667, subd. (a)) and prior prison allegations (§ 667.5). The trial court sentenced defendant to 75 years to life plus a determinate term of 13 years four months, to be served consecutively.

## DISCUSSION

### I

#### *Section 654*

Defendant contends the sentence for all but one charge must be stayed under section 654 because all charges derive from the same indivisible course of criminal conduct with the same objective, "to evade capture by police." The trial court rejected this argument, finding the "general goal to escape from law enforcement" is too broad and amorphous. Still, it found defendant's burglary and attempted carjacking had a common objective to take Federwitz's car and stayed imposition of the carjacking punishment, but found the assault of Federwitz stood alone. The court did not explicitly analyze the other three counts against defendant under section 654.

The People argue the judgment should be affirmed except the vandalism punishment should be stayed as being incidental to the vehicular evasion. We agree with the People.

Section 654, subdivision (a) provides in pertinent part: “An act or omission that is punishable in different ways by different provisions of law shall be punished under the provision that provides for the longest potential term of imprisonment, but in no case shall the act or omission be punished under more than one provision.” Courts impose and stay execution of the lesser punishment deriving from the same act or omission. (*People v. Duff* (2010) 50 Cal.4th 787, 796.)

The statutory reference to an “act or omission” includes one indivisible course of conduct encompassing several acts. (*People v. Corpening* (2016) 2 Cal.5th 307, 311.) “It is defendant’s intent and objective, not the temporal proximity of his offenses, which determine whether the transaction is indivisible. [Citations.] We have traditionally observed that if all of the offenses were merely incidental to, or were the means of accomplishing or facilitating one objective, defendant may be found to have harbored a single intent and therefore may be punished only once. [Citation.] [¶] If, on the other hand, defendant harbored ‘multiple criminal objectives,’ which were independent of and not merely incidental to each other, he may be punished for each statutory violation committed in pursuit of each objective, ‘even though the violations shared common acts or were parts of an otherwise indivisible course of conduct.’ ” (*People v. Harrison* (1989) 48 Cal.3d 321, 335.)

Application of section 654 must be consistent with the statute’s purpose to ensure “that a defendant’s punishment will be commensurate with his culpability.” (*People v. Perez* (1979) 23 Cal.3d 545, 552.) A too expansive reading of the criminal transaction relying on an amorphous criminal objective would improperly “reward the defendant who has the greater criminal ambition with a lesser punishment.” (*Ibid.*) Hence, whether the defendant had time to reflect and consider avoiding additional criminal conduct indicates a divisible course of conduct warranting multiple punishments. (See *People v. Harrison, supra*, 48 Cal.3d at p. 338; *People v. Trotter* (1992) 7 Cal.App.4th 363, 368.)

The court's analysis in *Trotter* is particularly helpful here. There, the defendant fired three shots in approximately one minute from a stolen taxi at a pursuing police officer. (*People v. Trotter, supra*, 7 Cal.App.5th at pp. 365-366.) The defendant was charged with three counts of assault, one for each bullet fired, and the defendant argued two of the three assault sentences should have been stayed. (*Id.* at p. 366.) The appellate court affirmed under section 654, finding "Defendant's conduct became more egregious with each successive shot. Each shot posed a separate and distinct risk to [the officer] and nearby freeway drivers. To find section 654 applicable to these facts would violate the very purpose for the statute's existence." The court also noted "[a]ll three assaults were volitional and calculated, and were separated by periods of time during which reflection was possible." (*Trotter*, at p. 368.)

We review a trial court's factual finding of whether there was a single criminal act or a course of conduct with a shared intent or objective under the substantial evidence standard, which will not be reversed unless unsupported by the evidence. (*People v. Saffle* (1992) 4 Cal.App.4th 434, 438.) When a court sentences a defendant for multiple crimes, without staying execution of the sentence under section 654, the judge implicitly finds the acts involved more than one objective. (*People v. Osband* (1996) 13 Cal.4th 622, 730-731.)

The trial court's findings are supported by evidence for all but one count. Overall, defendant's crime was not one indivisible course of conduct. Though defendant may have committed each crime generally to avoid capture, he had plenty of opportunity to cease his criminal behavior but instead chose to continue committing crimes. Permitting defendant's criminal behavior to collapse into a single course of conduct would permit punishment for one crime only no matter how long his evasion lasted, even if it included ever worsening crimes. This would violate the purpose of section 654 by imposing a lower sentence for an increasing criminal culpability.

Still, one can break up defendant's spree into several indivisible courses of conduct. Defendant's first crimes of vehicular evasion and vandalism were incidental to each other, contrary to the trial court's implicit finding, because defendant drove recklessly to achieve his intent of evading the police. Vehicular evasion requires the pursued vehicle to be driven "in a willful or wanton disregard for the safety of persons or property." (Veh. Code, § 2800.2, subd. (a).) The prosecutor relied on defendant's destruction of the gates and police cars to argue defendant evaded with a wanton and willful disregard for safety of people and property. Defendant also did not have time to stop and reflect on his actions because the vandalism and evasion occurred simultaneously. The two crimes were therefore incidental to each other and the court's implicit ruling these two crimes were independent was made in error. Both crimes have the same potential term but the vehicular evasion count had the greater imposed term so the vandalism charge must be stayed. (See *People v. Mejia* (2017) 9 Cal.App.5th 1036, 1048 ["the unstayed sentence must be the one which will result in a defendant actually spending the longest period in prison"].)

Defendant's next crime was striking or beating Reno. This was not incidental to any other crime, involved increased culpability for injuring a police dog, and defendant had an opportunity to stop fighting Reno, reflect on his criminal acts, and conclude his evasion. This evidence supports the trial court's implicit finding this crime was divisible from defendant's other criminal conduct.

Defendant's final set of crimes occurred at Federwitz's house. The trial court found defendant's burglary and attempted carjacking shared the same objective; this is supported by evidence. Defendant was in the house for a matter of seconds grabbing only the car keys and a pot, both items used to try to carjack Federwitz. This indicates the burglary and carjacking were incidental to each other, forming one indivisible course of conduct.

Conversely, the trial court found defendant's assault of Federwitz stood alone; this too is supported by evidence. Defendant beat Federwitz after he twice did not agree to give defendant a ride. This indicates defendant's objective for committing the assault was to get Federwitz to drive him, which is distinct from defendant's attempt to carjack Federwitz and drive himself from the scene.

In summary, we find the trial court's division of defendant's criminal course of conduct under section 654 is supported by the evidence except for defendant's vandalism and vehicular evasion. These two crimes were incidental, and thus, the vandalism punishment as the lesser sentence must be stayed.

## II

### *Abstract Of Judgment*

The People correctly contend the abstract of judgment improperly states defendant was sentenced to life without the possibility of parole. Typically, "[w]here there is a discrepancy between the oral pronouncement of judgment and the minute order or the abstract of judgment, the oral pronouncement controls." (*People v. Zackery* (2007) 147 Cal.App.4th 380, 385.) The court did not orally order 75 years to life without parole. We direct the court to correct the abstract of judgment to be life with the possibility of parole.

## III

### *Section 667.5 Enhancement*

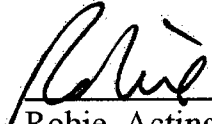
We also strike the enhancement under section 667.5, subdivision (b), based on Senate Bill No. 136. Signed by the Governor on October 8, 2019, and effective January 1, 2020, Senate Bill No. 136 amends section 667.5, subdivision (b), to eliminate the one-year prior prison term enhancement for most prior convictions. (Stats. 2019, ch. 590, § 1.) An exception, not applicable here, is made for a qualifying prior conviction on a sexually violent offense, as defined in Welfare and Institutions Code section 6600, subdivision (b).



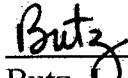
Because Senate Bill No. 136 is now effective and defendant's judgment is not yet final, the amended law will apply to him retroactively. (See *In re Estrada* (1965) 63 Cal.2d 740, 744-745 [absent evidence of contrary legislative intent, ameliorative criminal statutes apply to all cases not final when statute takes effect].) Accordingly, defendant's section 667.5, subdivision (b), enhancement must be stricken.


#### DISPOSITION

The punishment for the vandalism of police property is stayed and the enhancement under section 667.5 is stricken. In all other respects, the judgment is affirmed. The trial court is directed to amend the abstract of judgment accordingly, and to correct the abstract to reflect the oral pronouncement of 75 years to life with the possibility of parole. The court is further directed to forward a certified copy of the amended and corrected abstract to the Department of Corrections and Rehabilitation.

  
Robie, Acting P. J.

We concur:

  
Butz, J.

  
Mauro, J.

IN THE  
**Court of Appeal of the State of California**  
IN AND FOR THE  
THIRD APPELLATE DISTRICT

THE PEOPLE,  
Plaintiff and Respondent,  
v.  
FERNANDO SANCHEZ, JR.,  
Defendant and Appellant.

C088733  
Sacramento County  
No. 17FE017119

BY THE COURT:

Appellant's petition for rehearing is denied.



ROBIE, Acting P.J.

---

cc: See Mailing List

Appendix c

COURT NO.: 17FE017119

DEFENDANT'S NAME: SANCHEZ, FERNANDO

Consecutive sentences are being recommended after consideration of Rule 4.425(a)(2).

Therefore, it is recommended the defendant be sentenced to state prison for an indeterminate term of one hundred (100) years to Life, to be served consecutive to the determinate term of sixteen (16) years, four (4) months.

**Rule 4.414(b)(5): Effect of Imprisonment/Incarceration**

The defendant is single, has three adult children, and resided with his parents. He was employed full time as a gardener and worked part time for a temporary agency.

**Recommendation:**

Therefore, it is respectfully recommended:

1. Defendant be committed to state prison for the indeterminate term of one hundred (100) years to Life, consecutive to the determinate term of sixteen (16) years, four (4) months;

75-Life  
134 4m  
SP

2. Defendant pay a restitution fine pursuant to Penal Code Section 1202.4 in the amount of ~~\$10,000.00~~, 300 to be paid forthwith or as provided by Penal Code Section 2085.5(a);

3. Pursuant to Penal Code Section 1202.45, the Court is imposing an additional restitution fine in the same amount as that just imposed. Payment of this fine is suspended and will remain suspended unless defendant's parole is revoked;

4. Defendant make restitution to the victim Sacramento Police Department in the amount of \$15,682.47 with an additional amount to be determined, pursuant to Section 1202.4 of the Penal Code, collectible pursuant to Penal Code Section 2085.5(b);

00497

Appendix B

**ABSTRACT OF JUDGMENT—PRISON COMMITMENT—INDETERMINATE**  
(NOT VALID WITHOUT COMPLETED PAGE TWO OF CR-292 ATTACHED)

CR-292

SUPERIOR COURT OF CALIFORNIA, COUNTY OF: <b>SACRAMENTO</b>				
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: <b>FERNANDO SANCHEZ JR.</b>		DOB: 02-19-1975	17FE017119	-A
AKA:				-B
CII NO.: A08958808				-C
BOOKING NO.: X-REF: 1861596		<input type="checkbox"/> NOT PRESENT		By -D
COMMITMENT TO STATE PRISON ABSTRACT OF JUDGMENT		<input type="checkbox"/> AMENDED ABSTRACT		
DATE OF HEARING <b>01-18-2019</b>		DEPT. NO. <b>42</b>	JUDGE <b>ALLEN SUMNER</b>	
CLERK <b>M. GARCIA</b>		REPORTER <b>K. KLEMENCIC #6131</b>	PROBATION NO. OR PROBATION OFFICER <b>M. SOLIVEN</b>	
COUNSEL FOR PEOPLE <b>SYDNE JONES, DDA</b>		COUNSEL FOR DEFENDANT <b>GREGORY FOSTER, APD</b>		<input type="checkbox"/> IMMEDIATE SENTENCING <input checked="" type="checkbox"/> APPTD.

**FILED**  
**ENDORSED**  
**JAN 18 2019**  
**M. GARCIA**  
Deputy Clerk

1. Defendant was convicted of the commission of the following felonies:

☐ Additional counts are listed on attachment  
\_\_\_\_\_ (number of pages attached)

COUNT	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YEAR)	CONVICTED BY			CONCURRENT	CONSECUTIVE	654 STAY
						JURY	COURT	PLEA			
1	PC	459*	BURGLARY - 1ST DEGREE	2017	11 / 20 / 18	X				X	
2	PC	664/215(A)	ATTEMPTED CARJACKING	2017	11 / 20 / 18	X					X
3	PC	245(A)(1)	ASSAULT WITH DEADLY WEAPON OR INSTRUMENT	2017	11 / 20 / 18	X				X	
6	PC	600(A)	MALICIOUS HARM OF PEACE OFFICER'S DOG	2017	11 / 20 / 18	X				X	
					/ /						
					/ /						

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

COUNT	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	TOTAL

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	ENHANCEMENT	TIME IMPOSED OR "S" FOR STAYED	TOTAL

Defendant was sentenced to State Prison for an INDETERMINATE TERM as follows:

4. ☒ LIFE WITHOUT THE POSSIBILITY OF PAROLE on counts 1,2,3,6
5. ☐ LIFE WITH THE POSSIBILITY OF PAROLE on counts \_\_\_\_\_
6. a. ☐ 15 years to Life on counts \_\_\_\_\_ c. ☐ \_\_\_\_\_ years to Life on counts \_\_\_\_\_
- b. ☒ 25 years to Life on counts 1,2,3,6 d. ☐ \_\_\_\_\_ years to Life on counts \_\_\_\_\_
- PLUS enhancement time shown above
7. ☒ Additional determinate term (see CR-290).
8. ☒ Defendant was sentenced pursuant to ☒ PC 667(b)-(i) or PC 1170.12 ☐ PC 667.61 ☐ PC 667.7 ☐ other (specify): \_\_\_\_\_

This form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for determinate sentences. Attachments may be used but must be referred to in this document.

: 60513

**FELONY ABSTRACT OF JUDGMENT—DETERMINATE**  
(NOT VALID WITHOUT COMPLETED PAGE TWO OF CR-290 ATTACHED)

CR-290

SUPERIOR COURT OF CALIFORNIA, COUNTY OF: <b>SACRAMENTO</b>					
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: <b>FERNANDO SANCHEZ JR.</b>		DOB: <b>02-19-1975</b>	<b>17FE017119</b>	<b>-A</b>	
AKA:				<b>-B</b>	
CII NO.: <b>A08958808</b>				<b>-C</b>	
BOOKING NO.: <b>X-REF: 1861596</b>		<input type="checkbox"/> NOT PRESENT		<b>-D</b>	
FELONY ABSTRACT OF JUDGMENT <input checked="" type="checkbox"/> PRISON COMMITMENT <input type="checkbox"/> COUNTY JAIL COMMITMENT <input type="checkbox"/> AMENDED ABSTRACT					
DATE OF HEARING <b>01-18-2019</b>		DEPT. NO. <b>42</b>	JUDGE <b>ALLEN SUMNER</b>		
CLERK <b>M. GARCIA</b>		REPORTER <b>K. KLEMENCIC, #6131</b>	PROBATION NO. OR PROBATION OFFICER <b>M. SOLIVEN</b>		<input type="checkbox"/> IMMEDIATE SENTENCING
COUNSEL FOR PEOPLE <b>SYDNEY JONES, DDA</b>			COUNSEL FOR DEFENDANT <b>GREGORY FOSTER, APD</b> <input checked="" type="checkbox"/> APPOINTED		

1. Defendant was convicted of the commission of the following felonies:

☐ Additional counts are listed on attachment  
 \_\_\_\_\_ (number of pages attached)

☐ Additional counts are listed on attachment \_\_\_\_\_ (number of pages attached)

COUNT	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YR.)	CONVICTED BY			TERM (L, M, U)	CONCURRENT	1/3 CONSECUTIVE	CONSECUTIVE FULL TERM	INCOMPLETE SENTENCE (REFER TO Item 6)	664 STAY	SERIOUS FELONY	VIOLENT FELONY	PRINCIPAL OR CONSECUTIVE TIME IMPOSED		
						JURY	COURT	PLEA									YRS.	MOS.	
4	VC	2800.2(A)	EVADING/RECKLESS	2017	11 / 20 / 18	X			M			X						4	0
5	PC	594(A)	VANDALISM	2017	11 / 20 / 18	X			M		X							1	4
					/ /														
					/ /														
					/ /														
					/ /														

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed, "S" for stayed, or "PS" for punishment struck. DO NOT LIST ENHANCEMENTS FULLY STRICKEN by the court.

COUNT	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	TOTAL
1	PC 12022(B)(1)	1Y C/S					1    0
2	PC 12022(B)(1)	S					
6	PC 12022(B)(1)	1Y C/S					1    0

3. ENHANCEMENTS charged and found to be true for PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed, "S" for stayed, or "PS" for punishment struck. DO NOT LIST ENHANCEMENTS FULLY STRICKEN by the court.

ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	TOTAL
PC 667(A)	5Y C/S					5    0
PC 667.5	1Y C/S					1    0

4. Defendant sentenced ☐ to county jail per 1170(h)(1) or (2)

☐ to prison per 1170(a), 1170.1(a) or 1170(h)(3) due to ☐ current or prior serious or violent felony ☐ PC 290 or ☐ PC 186.11 enhancement

☒ per PC 667(b)-(i) or PC 1170.12 (strike prior)

☐ per PC 1170(a)(3). Preconfinement credits equal or exceed time imposed. ☐ Defendant ordered to report to local parole or probation office.

5. INCOMPLETE SENTENCE(S) CONSECUTIVE

COUNTY	CASE NUMBER

6. TOTAL TIME ON ATTACHED PAGES: \_\_\_\_\_

7. ☒ Additional indeterminate term (see CR-292).

8. TOTAL TIME: 13    4

Attachments may be used but must be referred to in this document.

: 00514

PEOPLE OF THE STATE OF CALIFORNIA vs.  
 DEFENDANT: **FERNANDO SANCHEZ JR.**

17FE017119

-A

-B

-C

-D

## 9. FINANCIAL OBLIGATIONS (plus any applicable penalty assessments):

## a. Restitution Fines:

- Case A: \$ 300.00 per PC 1202.4(b) forthwith per PC 2085.5; \$ 300.00 per PC 1202.45 suspended unless parole is revoked.  
 \$ \_\_\_\_\_ per PC 1202.44 is now due, probation having been revoked.
- Case B: \$ \_\_\_\_\_ per PC 1202.4(b) forthwith per PC 2085.5; \$ \_\_\_\_\_ per PC 1202.45 suspended unless parole is revoked.  
 \$ \_\_\_\_\_ per PC 1202.44 is now due, probation having been revoked.
- Case C: \$ \_\_\_\_\_ per PC 1202.4(b) forthwith per PC 2085.5; \$ \_\_\_\_\_ per PC 1202.45 suspended unless parole is revoked.  
 \$ \_\_\_\_\_ per PC 1202.44 is now due, probation having been revoked.
- Case D: \$ \_\_\_\_\_ per PC 1202.4(b) forthwith per PC 2085.5; \$ \_\_\_\_\_ per PC 1202.45 suspended unless parole is revoked.  
 \$ \_\_\_\_\_ per PC 1202.44 is now due, probation having been revoked.

## b. Restitution per PC 1202.4(f):

- Case A: \$ \_\_\_\_\_ ☐ Amount to be determined to ☐ victim(s)\* ☐ Restitution Fund
- Case B: \$ \_\_\_\_\_ ☐ Amount to be determined to ☐ victim(s)\* ☐ Restitution Fund
- Case C: \$ \_\_\_\_\_ ☐ Amount to be determined to ☐ victim(s)\* ☐ Restitution Fund
- Case D: \$ \_\_\_\_\_ ☐ Amount to be determined to ☐ victim(s)\* ☐ Restitution Fund

☒ \*Victim name(s), if known, and amount breakdown in item 12, below. ☒ \*Victim name(s) in probation officer's report.

## c. Fines:

- Case A: \$ \_\_\_\_\_ per PC 1202.5 \$ \_\_\_\_\_ per VC 23550 or \_\_\_\_\_ days ☐ county jail ☐ prison in lieu of fine ☐ concurrent ☐ consecutive  
☐ includes: ☐ \$50 Lab Fee per HS 11372.5(a) ☐ \$ \_\_\_\_\_ Drug Program Fee per HS 11372.7(a) for each qualifying offense
- Case B: \$ \_\_\_\_\_ per PC 1202.5 \$ \_\_\_\_\_ per VC 23550 or \_\_\_\_\_ days ☐ county jail ☐ prison in lieu of fine ☐ concurrent ☐ consecutive  
☐ includes: ☐ \$50 Lab Fee per HS 11372.5(a) ☐ \$ \_\_\_\_\_ Drug Program Fee per HS 11372.7(a) for each qualifying offense
- Case C: \$ \_\_\_\_\_ per PC 1202.5 \$ \_\_\_\_\_ per VC 23550 or \_\_\_\_\_ days ☐ county jail ☐ prison in lieu of fine ☐ concurrent ☐ consecutive  
☐ includes: ☐ \$50 Lab Fee per HS 11372.5(a) ☐ \$ \_\_\_\_\_ Drug Program Fee per HS 11372.7(a) for each qualifying offense
- Case D: \$ \_\_\_\_\_ per PC 1202.5 \$ \_\_\_\_\_ per VC 23550 or \_\_\_\_\_ days ☐ county jail ☐ prison in lieu of fine ☐ concurrent ☐ consecutive  
☐ includes: ☐ \$50 Lab Fee per HS 11372.5(a) ☐ \$ \_\_\_\_\_ Drug Program Fee per HS 11372.7(a) for each qualifying offense

d. Court Security Fee: \$ 240.00 per PC 1465.8.e. Criminal Conviction Assessment: \$ 180.00 per GC 70373.10. TESTING: a. ☒ Compliance with PC 296 verified b. ☐ AIDS per PC 1202.1 c. ☐ other (specify):11. REGISTRATION REQUIREMENT: ☐ per (specify code section):

12. Other orders (specify):

\$15,682.47 VICTIM RESTITUTION TO SACRAMENTO POLICE DEPARTMENT

## 13. IMMEDIATE SENTENCING:

- ☐ Probation to prepare and submit post-sentence report to CDCR per PC 1203c.

Defendant's race/national origin: HISPANIC

## 14. EXECUTION OF SENTENCING IMPOSED

- a. ☒ at initial sentencing hearing
- b. ☐ at resentencing per decision on appeal
- c. ☐ after revocation of probation
- d. ☐ at resentencing per recall of commitment (PC 1170(d).)
- e. ☐ other (specify):

## 15. CREDIT FOR TIME SERVED

CASE	TOTAL CREDITS	ACTUAL	LOCAL CONDUCT
A	990	495	<input type="checkbox"/> 2933 <input type="checkbox"/> 2933.1 <input checked="" type="checkbox"/> 4019
B			<input type="checkbox"/> 2933 <input type="checkbox"/> 2933.1 <input type="checkbox"/> 4019
C			<input type="checkbox"/> 2933 <input type="checkbox"/> 2933.1 <input type="checkbox"/> 4019
D			<input type="checkbox"/> 2933 <input type="checkbox"/> 2933.1 <input type="checkbox"/> 4019
Date Sentence Pronounced		Time Served in State Institution	
01 18 2019		DMH	CDC CRC
		<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>

16. The defendant is remanded to the custody of the sheriff ☒ forthwith ☐ after 48 hours excluding Saturdays, Sundays, and holidays.To be delivered to ☒ the reception center designated by the director of the California Department of Corrections and Rehabilitation.☐ other (specify):

## CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE

DATE

01-18-2019

CR-290 (Rev. January 1, 2012)

ABSTRACT OF JUDGMENT—PRISON COMMITMENT—INDETERMINATE

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