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

THE PEOPLE,

Plaintiff and Respondent,

v.

SERGIO DOMINGUEZ,

Defendant and Appellant.

C050399

(Super. Ct. No. 04F09169)

A jury convicted defendant Sergio Dominguez of four counts of attempted robbery in concert of an inhabited dwelling house (Pen. Code, §§ 211, 213, subd. (a)(1)(A), 664), two counts of robbery in concert of an inhabited dwelling house (Pen. Code, §§ 211, 213, subd. (a)(1)(A)), two counts of battery with serious bodily injury (Pen. Code, § 243, subd. (d)), and two counts of assault by means of force likely to result in great bodily injury (Pen. Code, § 245, subd. (a)(1)).

The trial court sentenced defendant to 13 years computed as follows: a middle term of six years for one robbery count; a consecutive two years (one-third the middle term) on the other robbery count; four consecutive one-year sentences (one-third the middle term) for the four attempted robbery counts; and one

year consecutive (one-third the middle term) for one battery count. The court also imposed the following sentences and stayed execution pursuant to Penal Code section 654: three years concurrent on the other battery count, one consecutive year for one assault count, and three years concurrent for the other assault count.

On appeal, defendant contends the imposition of consecutive sentences violated the principles of *Blakely v. Washington* (2004) 542 U.S. 296 [159 L.Ed.2d 403] (*Blakely*). We reject defendant's contention and affirm the judgment.

BACKGROUND

As the facts of defendant's crimes are not needed to resolve the appeal, they are summarized briefly. About 7:00 p.m. on August 22, 2004, defendant, Jerome Stowe (J.C.), Steven Yearwood, and Brian Carlino knocked on the door of an apartment in Rancho Cordova. Anastacio Sanchez, Julio Perez, Raul Reyes, Alfonso Oliveres, and Jose Sanchez were in the apartment that evening. After the door was opened defendant and J.C. demanded money from the residents. Defendant eventually struck Julio Perez in the face with a set of brass knuckles. He and J.C. then hit Jose Sanchez, who gave them about \$15.

Raul Reyes heard screaming and came out from his bedroom. Defendant caught him in the hallway and punched him in the face and head. J.C. struck Anastacio in the head. J.C. also hit Alfonso in the face and took his wallet and change. Defendant and J.C. hit Julio Perez several times with a stereo. Defendant also cut Jose Sanchez's arm with a knife.

DISCUSSION

Defendant claims that *Blakely, supra*, 542 U.S. 296, invalidates the statutory method used by California trial judges to impose consecutive sentences, thereby invalidating his sentence. Defendant recognizes that the California Supreme Court rejected his *Blakely* contention in *People v. Black* (2005) 35 Cal.4th 1238, 1262-1263, but states he is making the argument to preserve the issue for federal review. Pursuant to *Black*, we reject the contention. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.)

DISPOSITION

The judgment is affirmed.

SIMS, Acting P.J.

We concur:

DAVIS, J.

HULL, J.