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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

CHARLES BERNETTE JONES,

Defendant and Appellant.

A129248

(Solano County  
Super. Ct. No. FCR261338)

Defendant Charles Bernette Jones appeals from a judgment after entering a plea of no contest to one count of burglary (Pen. Code,<sup>1</sup> § 459) and admitting a strike prior (§§ 1170.12, subds. (a)–(d); 667, subds. (b)–(i)) and three one-year prison priors (§ 667.5, subd. (b)). The trial court sentenced defendant to 11 years in state prison and ordered defendant to pay a \$200 restitution fine pursuant to section 1202.4, and a \$200 restitution fine pursuant to section 1202.45, stayed pending completion of parole. The abstract of judgment and minute order, however, indicate both fines were set at \$2,200. Defendant contends the abstract of judgment and minute order should be modified to accurately reflect the restitution fines orally imposed by the court at sentencing. The Attorney General concedes the errors. We modify the judgment and otherwise affirm.

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<sup>1</sup> All statutory references are to the Penal Code.

## **I. BACKGROUND<sup>2</sup>**

On June 2, 2008, the victim observed defendant walking out of her garage holding her husband's DeWalt drill case. Defendant ran to a blue Jeep Cherokee and drove away. The victim provided police with a vehicle description and license plate number. The police subsequently located the vehicle and defendant at the residence linked to the license plate where defendant was observed in the threshold of the driveway and garage area. After being transported to this residence, the victim identified defendant as the person who carried the drill case away from her garage. Following a parole search of the residence's garage, police located the drill case, which contained a drill and a battery. The serial number of the battery matched another battery at the victim's home.

## **II. DISCUSSION**

Defendant contends the abstract of judgment and minute order wrongfully reflect that both the restitution fine and parole revocation fine were set at \$2,200, rather than \$200. "Where 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; see also *People v. Mitchell* (2001) 26 Cal.4th 181, 185–186.) Here, the sentencing transcript indicates the court ordered defendant to pay a \$200 restitution fine and stayed a \$200 parole revocation fine pending the completion of parole. It did not impose \$2,200 per fine. The Attorney General concedes the errors. We will therefore order the abstract of judgment and minute order to be corrected to reflect a \$200 restitution fine under section 1202.4, and a \$200 parole revocation fine pursuant to section 1202.45, stayed pending completion of parole.

## **III. DISPOSITION**

The judgment is modified to reflect the imposition of a \$200 restitution fine pursuant to section 1202.4, and a \$200 parole revocation restitution fine pursuant to section 1202.45, stayed pending the completion of parole. The trial court is directed to prepare an amended minute order and abstract of judgment, and to forward a copy of the

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<sup>2</sup> The following factual summary is taken from the probation report.

amended abstract of judgment to the California Department of Corrections and Rehabilitation. As modified, the judgment is affirmed.

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Margulies, Acting P.J.

We concur:

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Dondero, J.

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Banke, J.