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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

CARLOS ROMERO LOPEZ,

Defendant and Appellant.

A142566

(Sonoma County
Super. Ct. Nos. SCR-630798,
SCR-614850)

Defendant Carlos Romero Lopez appeals from judgments imposed after termination of his probation. He contends that the court lost jurisdiction to impose sentences in these cases because it terminated probation before it pronounced the judgments. This argument has no merit, and we affirm.

I. BACKGROUND

In April 2013, pursuant to a plea agreement in case number SCR-630798, Lopez pleaded guilty to check forgery (Pen. Code, § 470, subd. (a)),¹ and possession of methamphetamine (Health & Saf. Code, § 11377). The court suspended imposition of sentence, and placed Lopez on probation for three years. In July 2013, Lopez admitted violating probation, and his probation was reinstated.

In December 2013, pursuant to a plea agreement in case number SCR-641850, Lopez pleaded guilty to receiving stolen property. (§ 496, subd. (a).) Imposition of

¹ Unless otherwise indicated, subsequent statutory references are to the Penal Code.

sentence was suspended, and he was placed on probation for three years. At the same time, the court found a violation of probation in the forgery and methamphetamine case, and reinstated Lopez on probation in that case.

In January 2014, Lopez admitted violating probation in both cases, and he was reinstated on probation in both. In April his probation in both cases was revoked.

On May 28, 2014, Lopez again admitted violating probation in both cases. He was sentenced to three years and four months of felony imprisonment in county jail pursuant to section 1170, subdivision (h), representing two years for the forgery offense, and consecutive terms of eight months for possession of methamphetamine, and eight months for receipt of stolen property. The court suspended the last four months of the sentence, and ordered that they be served on mandatory supervision.

I. DISCUSSION

At the May 28 hearing, after the probation violations were admitted and before the sentence was imposed, the court said, “All right. So your probation’s going to be reinstated and terminated unsuccessfully. You’re going to be sentenced pursuant to 1170(h) of the Penal Code.”

Lopez contends that the court lost jurisdiction to impose sentence once it stated that his probation would be terminated. He concedes that the court would have had jurisdiction had it simply stated after, rather than before, pronouncing sentence that probation was terminated. He asserts: “If probation has been revoked, the trial court should impose sentence and then terminate the earlier grant of probation. In which case it retains jurisdiction to act.”

No authority supports such an extreme exaltation of form over substance as Lopez proposes. The cases he cites in support of his position, *People v. Broadway* (1981) 123 Cal.App.3d.Supp. 19, and *People v. O’Donnell* (1918) 37 Cal.App. 192, are inapposite. In those cases, the trial courts could not revoke probation because an untolled period of probation had expired. (*People v. Broadway, supra*, 123 Cal.App.3d.Supp. at pp. 20–24; *People v. O’Donnell, supra*, 37 Cal.App. at pp. 193–194.) That is not the situation in this case. Here, probation was revoked in both cases as of April 28, 2014. Imposition of

sentence was authorized here by section 1203.2, subdivision (c), which provides: “Upon any revocation *and termination* of probation the court may, if the sentence has been suspended, pronounce judgment for any time within the longest period for which the person might have been sentenced.” (Italics added; see *People v. Broadway, supra*, 123 Cal.App.3d.Supp. at p. 22, citing *People v. Smith* (1970) 12 Cal.App.3d 621, 625 [“a previously suspended sentence may be imposed after the date of termination of probation,” provided probation was revoked before that date].)

III. DISPOSITION

The judgments are affirmed.

Siggins, J.

We concur:

McGuinness, P.J.

Pollak, J.