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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE LUIS MENDOZA,

Defendant and Appellant.

A145163

(Mendocino County Super. Ct.
No. SCUKCR1475596)

Jose Luis Mendoza appeals from a conviction entered upon his plea of no contest to a charge of possession of marijuana for sale. He contends the abstract of judgment requires correction because it incorrectly reflects the court's orders regarding two fees. Respondent agrees, and we will order the necessary correction.

STATEMENT OF THE CASE

Appellant was charged by information filed on August 18, 2014, with one count of possession of marijuana for sale. (Health & Saf. Code, 11359.)¹ He entered a no contest plea on October 8, 2014, and on March 13, 2015, was sentenced to the aggravated term of three years, the first year and a half to be served in local custody and the remainder on mandatory supervision. The court imposed a number of fines and fees, including a "\$190 lab fee" and a "\$570 drug fee." The minute order for March 13, however, indicates a "Lab Fee" of \$590 and a "Drug Program Fee" of \$190.

Appellant filed a notice of appeal on May 12, 2015.

¹ The facts underlying the charge will not be recited as they are not relevant to the only issue on appeal.

On May 18, 2015, the superior court clerk filed the abstract of judgment. Like the minute order, the abstract of judgment indicates “\$590 Lab Fee” and “\$190 Drug Program Fee.” Another abstract of judgment was filed on June 22, 2015, which contains the same information for those two fees. On August 27, 2015, appellant’s appellate attorney wrote to the superior court requesting correction of the minute order and abstract of judgment. Appellant asserts that this request was not granted; we are aware of no documentation of the trial court’s response in the record.

DISCUSSION

“ ‘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. Morelos* (2008) 168 Cal.App.4th 758, 768, quoting *People v. Walz* (2008) 160 Cal.App.4th 1364, 1367, fn. 3; *People v. Mitchell* (2001) 26 Cal.4th 181, 185–186.) “ ‘It is not open to question that a court has the inherent power to correct clerical errors in its records so as to make these records reflect the true facts. [Citations.] The power exists independently of statute and may be exercised in criminal as well as in civil cases. [Citation.] The power is unaffected by the pendency of an appeal or a habeas corpus proceeding. [Citation.] The court may correct such errors on its own motion or upon the application of the parties.’ ” (*In re Candelario* (1970) 3 Cal.3d 702, 705.) Courts may correct clerical errors at any time, and appellate courts (including this one) that have properly assumed jurisdiction of cases have ordered correction of abstracts of judgment that did not accurately reflect the oral judgments of sentencing courts.” (*Mitchell*, at p. 185.)

Consistent with the amounts recommended for the relevant fines in the probation report, the trial court at sentencing stated that it was imposing “a \$190 lab fee and the \$570 drug fee.” The minute order apparently both misstated and reversed these fees, indicating \$190 for the drug program fee and \$590 for the lab fee. These clerical errors require correction.

The only question this appeal poses is why the trial court did not correct these clerical errors when they were called to its attention. We now order that the abstract of

judgment be corrected to reflect the fees in fact ordered by the court: \$190 for the lab fee (Health & Saf. Code, § 11372.5, subd. (a)), and \$570 for the drug program fee (Health & Saf. Code, § 11372.7, subd. (a)).

DISPOSITION

The clerk of the Mendocino County Superior Court is ordered to prepare a corrected abstract of judgment indicating a lab fee of \$190 and a drug program fee of \$570.

The judgment is affirmed.

Kline, P.J.

We concur:

Stewart, J.

Miller, J.

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