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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

PATRICK CURTIS NEISINGER,

Defendant and Appellant.

2d Crim. No. B248662
(Super. Ct. No. F474372)
(San Luis Obispo County)

Patrick Curtis Neisinger appeals a judgment entered after he pled no contest to receiving stolen property (Pen. Code, § 496, subd. (a))¹ and admitted one prior serious felony “strike” conviction and one prior prison term allegation. (§§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d), 667.5, subd. (b).) In accordance with a plea agreement, the trial court sentenced Neisinger to seven years in prison, with 239 days of actual presentence custody credit and 239 days of presentence conduct credit. Neisinger contends, and the People concede, that he is entitled to additional credit.

FACTUAL AND PROCEDURAL BACKGROUND

We omit recitation of the facts because Neisinger’s only claim concerns calculation of sentencing credit.

¹ All statutory references are to the Penal Code.

DISCUSSION

Neisinger is entitled to 308 days of actual presentence custody credit and 308 days of presentence conduct credit because he spent 308 days, not 239 days, in presentence custody. He was arrested on May 17, 2012, and remained in custody until July 24, 2012, when he posted bail, for an initial period of 69 days. He returned to custody on August 13, 2012, until he was sentenced on April 8, 2013, for a second period of 239 days. The trial court omitted the initial period of custody when calculating Neisinger's presentence credit. Neisinger moved the trial court to correct the sentencing error pursuant to section 1237.1, and the court denied the motion.

DISPOSITION

We modify the judgment to reflect that Neisinger is entitled to 308 days of actual presentence custody credit and 308 days of presentence conduct credit, for a total of 616 days of presentence credit. The clerk shall prepare an amended abstract of judgment incorporating these changes and forward a certified copy to the Department of Corrections and Rehabilitation. As so modified, the judgment is affirmed.

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GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Jacquelyn H. Duffy, Judge

Superior Court County of San Luis Obispo

Richard B. Lennon, under appointment by the Court of Appeal, for
Defendant and Appellant.

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