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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

WALTER DENNIS DEHERRERA,

Defendant and Appellant.

C067858

(Super. Ct. No. 05F01596)

Defendant Walter Dennis DeHerrera pled no contest in June 2007 to two counts of elder abuse and one count of making criminal threats. The trial court stayed execution of defendant's sentence and placed him on five years of formal probation. In March 2011, defendant's probation was revoked and he was sentenced to prison pursuant to the terms

of the negotiated plea and in accordance with the previously stayed sentence.

Defendant contends on appeal that the trial court erred in imposing at sentencing a \$90 facilities fee pursuant to Government Code section 70373. The People agree, as do we. The fine imposed pursuant to Government Code section 70373 must be stricken.

Government Code section 70373 became effective January 1, 2009, and provides for imposition of an assessment on every conviction for a criminal offense. Its purpose is to "ensure and maintain adequate funding for court facilities." (Gov. Code, § 70373, subd. (a)(1).) The statute operates upon the event of a defendant's conviction. (*People v. Castillo* (2010) 182 Cal.App.4th 1410, 1414; *People v. Fleury* (2010) 182 Cal.App.4th 1486, 1492.)

Here, defendant was "convicted" in June 2007 when he entered a no contest plea. (*People v. Davis* (2010) 185 Cal.App.4th 998, 1001.) Because Government Code section 70373 applies only to convictions that occurred on or after its effective date, the \$90 fee cannot be imposed in this case. We shall strike the criminal conviction assessment.

DISPOSITION

The judgment is modified as follows to strike the \$90 facilities fee imposed pursuant to Government Code section 70373. The judgment is affirmed as modified. The trial court is directed to prepare an amended abstract of judgment

accordingly and to forward a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

_____ MURRAY _____, J.

We concur:

_____ HULL _____, Acting P. J.

_____ ROBIE _____, J.