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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

GLENN BRUCE BLAKEY,

Defendant and Appellant.

C068505

(Super. Ct. No.
CM030605)

Defendant Glenn Bruce Blakey pleaded no contest to unlawful sexual intercourse and oral copulation of a person under age 18. He was placed on probation and was ordered to pay, among other things, a \$1,080 sex crime fine and a \$60 court security fee. After violating probation, however, the trial court revoked his probation, sentenced him to prison, and imposed various fines and assessments "as previously ordered," including the \$60 court security fee and the \$1,080 sex crime fine.

Defendant contends on appeal that (1) the \$60 court security fee (\$30 per count) must be reduced to \$20 per count, the statutory amount at the time of his conviction, and (2) the various components of the \$1,080 sex crime fine must be itemized on the abstract of judgment. The Attorney General agrees with both contentions, and we also agree.

We will modify the judgment, affirm the judgment as modified, and direct the trial court to prepare an amended abstract of judgment.

BACKGROUND

The underlying facts regarding defendant's offenses are not at issue in this appeal and need not be recounted in this opinion. It is sufficient to explain that defendant pleaded no contest to unlawful sexual intercourse (Pen. Code,¹ § 261.5, subd. (c); count 1) and oral copulation of a person under age 18 (§ 288a, subd. (b)(1); count 2). The trial court suspended imposition of sentence and placed defendant on probation for four years on the condition, among others, that he serve one year of incarceration with credit for one year. Defendant was ordered to pay, among other things, a \$1,080 sex crime fine (§ 290.3) and a \$60 court security fee (§ 1465.8).

Approximately one year later, a petition was filed alleging that defendant violated his probation by contacting the victim, committing new criminal offenses, and terminating his

¹ Undesignated statutory references are to the Penal Code.

participation in a sex offender therapy program. Defendant admitted the violations. The trial court revoked defendant's probation, sentenced him to prison for two years eight months, and imposed various fines and assessments "as previously ordered," including the \$60 court security fee and the \$1,080 sex crime fine. The trial court awarded defendant 209 days of local custody credit, 85 days of state custody credit, and 146 days of conduct credit.²

DISCUSSION

I

Defendant contends that the \$60 court security fee, consisting of \$30 per count, must be modified to \$20 per count, the statutory amount at the time of defendant's conviction. The Attorney General agrees.

Section 1465.8, subdivision (a)(1) requires imposition of a court security fee on every conviction for a criminal offense. The statute became operative on August 17, 2003. (Stats. 2003, ch. 159, § 25.) Defendant entered his no contest pleas on July 14, 2009. The pleas constitute convictions. (*People v. Borland* (1996) 50 Cal.App.4th 124, 128.) At the time, the statute provided for a \$20 court security fee for each conviction.

² The relevant 2010 amendment to section 2933 does not entitle defendant to additional conduct credit because he was ordered to register as a sexual offender. (Former § 2933, subd. (e)(3) [as amended by Stats. 2010, ch. 426, § 1, eff. Sept. 28, 2010].)

Although section 1465.8 was amended to increase the court security fee from \$20 to \$30 as of July 28, 2009 (Stats. 2009, 4th Ex. Sess., ch. 22, § 29), defendant's convictions occurred while the fee was \$20, and there is no dispute that the fee attaches upon conviction. Thus, the fee per count should have been \$20.

When probation was revoked in 2011, the trial court observed that a court security fee of \$60 had previously been ordered and based the fee upon the original crimes rather than subsequent criminal conduct. (*People v. Johnson* (1993) 20 Cal.App.4th 106, 111.) However, the original crimes do not support the \$60 fee. We will modify the fee to \$40 (\$20 per conviction) and order the trial court to prepare an amended abstract of judgment.

II

Defendant further contends that the amended abstract of judgment must itemize the various components of the \$1,080 sex crime fine. (*People v. High* (2004) 119 Cal.App.4th 1192, 1200 (*High*).) Once again, the Attorney General agrees.

Item 5 of the probation report recommended that defendant pay a sex crime fine pursuant to section 290.3 as follows: \$300, plus a \$60 court surcharge (§ 1465.7, subd. (a)), a \$150 state court facilities construction fee (Gov. Code, § 70372), a \$300 state penalty assessment (incorrectly identified in the report as a \$30 assessment) (§ 1464), a \$210 county penalty assessment (Gov. Code, § 76000), a \$30 DNA identification fund

fee (Gov. Code, § 76104.6), and another \$30 DNA identification fund fee (Gov. Code, § 76104.7), for a total fine of \$1,080.

At sentencing in June 2011, the trial court orally ordered defendant to pay the sex crime fine as follows: "The Court orders the fine pursuant to Penal Code section 290.3 in the amount of \$300 to which the Court attaches the surcharges, funds, and assessments as detailed in item five for a total of \$1,080. It's not the Court's intention that this be a duplicate fine. If it's reflected in the original terms of probation, that fine is confirmed."

The abstract of judgment filed June 7, 2011, includes, among other things, the following: "Pay a fine of \$1,080 per PC 290.3." No itemization or breakdown of the \$1,080 sex crime fine is set forth in the abstract of judgment.

This court explained in *High*: "Although we recognize that a detailed recitation of all the fees, fines and penalties on the record may be tedious, California law does not authorize shortcuts. All fines and fees must be set forth in the abstract of judgment. [Citations.] The abstract of judgment form used here, Judicial Council form CR-290 (rev. Jan. 1, 2003) provides a number of lines for 'other' financial obligations in addition to those delineated with statutory references on the preprinted form. If the abstract does not specify the amount of each fine, the Department of Corrections cannot fulfill its statutory duty to collect and forward deductions from prisoner wages to the appropriate agency. [Citation.] At a minimum, the inclusion of all fines and fees in the abstract may assist state and local

agencies in their collection efforts. [Citation.] Thus, even where the Department of Corrections has no statutory obligation to collect a particular fee, such as the laboratory fee imposed under Health and Safety Code section 11372.5, the fee must be included in the abstract of judgment. [Citation.]" (*High, supra*, 119 Cal.App.4th at p. 1200.)

Accordingly, when the trial court prepares the amended abstract of judgment required by our modification of the judgment, it shall itemize the various components of the sex crime fine as reflected in its oral pronouncement of sentence and the probation report.

We have also identified a clerical error in the abstract of judgment. The abstract indicates that defendant pleaded no contest to count 1, Penal Code section 264.5, subdivision (c). The code section reference should be changed to reflect that he pleaded no contest to Penal Code section 261.5, subdivision (c).

DISPOSITION

The judgment is modified to impose a court security fee of \$40 (\$20 per count). As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment listing the \$40 security fee, itemizing the various components of the sex crime fine, and indicating that defendant pleaded no contest to count 1, Penal Code section 261.5, subdivision (c). The trial court is directed to forward a

certified copy of the amended abstract of judgment to the
California Department of Corrections and Rehabilitation.

_____ MAURO _____, J.

We concur:

_____ BLEASE _____, Acting P. J.

_____ BUTZ _____, J.