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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

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THE PEOPLE,  
  
Plaintiff and Respondent,  
  
v.  
  
ERIC SCOTT DUERR ROBERTS,  
  
Defendant and Appellant.

C068931

(Super. Ct. No.  
CM033365)

Defendant Eric Scott Duerr Roberts pleaded guilty to kidnapping and forcibly raping his 18-year-old former girlfriend (Pen. Code, §§ 207, subd. (a), 208, subd. (a), 261, subd. (a)(2))<sup>1</sup> and was sentenced to prison. At sentencing, defendant was ordered to have no visitation with the victim (§ 1202.05).

On appeal, defendant asks that the no-visitation order be stricken because section 1202.05 authorizes such orders only

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<sup>1</sup> Further unspecified statutory references are to the Penal Code.

when the sex crime victim is a minor. The People concede the error, and we agree.

Section 1202.05, subdivision (a), provides in relevant part: "Whenever a person is sentenced to the state prison on or after January 1, 1993, for violating Section 261, . . . and the victim . . . is a child under the age of 18 years, the court shall prohibit all visitation between the defendant and the child victim."

Because the victim here was 18 years old when the crime was committed, defendant was not subject to the mandatory provisions of section 1202.05.

DISPOSITION

The section 1202.05 no-visitation order is stricken. In all other respects, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment, and to forward a certified copy to the Department of Corrections and Rehabilitation.

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NICHOLSON, J.

We concur:

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BLEASE, Acting P. J.

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BUTZ, J.