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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

THE PEOPLE,

Plaintiff and Respondent,

v.

GIORGIO DEVON MCPHERSON,

Defendant and Appellant.

C069897

(Super. Ct. No. SM277801A)

Defendant Giorgio Devon McPherson pleaded guilty to assault with a firearm (Pen. Code, § 245, subd. (a)(2)), in exchange for a stipulated prison sentence of four years. At the change of plea hearing, the trial court also pronounced judgment and ordered defendant “to stay away from and have no contact with” the assault victims.

Defendant contends, and the People concede, that the trial court erred in ordering defendant to have no contact with the victims. Defendant was convicted of violating Penal Code section 245, subdivision (a)(2); that section does not authorize such an order. Penal Code section 136.2, subdivision (a), empowers the trial court to make various orders to protect witnesses and victims “upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur.” Orders made under that statute, however, are “operative only during the pendency of the criminal proceedings and as prejudgment orders.” (*People v. Selga* (2008) 162 Cal.App.4th 113, 119; see *People v. Ponce* (2009) 173 Cal.App.4th 378, 383;

*People v. Stone* (2004) 123 Cal.App.4th 153, 160.) And such orders must be supported by a finding of good cause for their issuance. (*People v. Stone, supra*, 123 Cal.App.4th at pp. 159-160.)

Here, the People concede there is no statutory authority for the no-contact order, and the court's inherent authority to issue appropriate orders to protect trial participants does not permit it to issue a protective order against a criminal defendant who has been sentenced to prison, absent express statutory authorization. (*People v. Ponce, supra*, 173 Cal.App.4th at pp. 382-383; compare with Pen. Code, §§ 646.9, subd. (k)(2) [stalking conviction may give rise to no contact order against an inmate], 1203.097, subd. (a)(2) [requiring that conditions of probation in domestic violence case include a "criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions"].)

As no statute empowered the trial court to impose a no-contact order in this case, we shall strike it.

### **DISPOSITION**

The trial court's order that defendant have no contact with the assault victims is stricken. The judgment is otherwise affirmed. The trial court shall amend the abstract of judgment accordingly, and forward a copy of the amended abstract to the Department of Corrections and Rehabilitation.

BLEASE, Acting P. J.

We concur:

NICHOLSON, J.

BUTZ, J.