

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Glenn)

THE PEOPLE,

Plaintiff and Respondent,

v.

AGUSTIN DURAN CHONGO,

Defendant and Appellant.

C073297

(Super. Ct. No. 11NCR08788)

Defendant Agustin Duran Chongo entered a negotiated plea of guilty to sexual penetration of a child under 14 years by force or fear (Pen. Code, § 289, subd. (a)(1)(B)) and was sentenced to prison.

At sentencing, the trial court awarded presentence credits: 527 days of actual custody, plus 79 days of conduct credit. On appeal, defendant does not challenge the court's calculation, but asks that we order the abstract of judgment be amended to correctly reflect the award of 79 days of conduct credit. The People concede the error.

We agree, but implore counsel henceforth to return to the trial court to correct obvious errors without filing an appeal and causing unnecessary expense to all involved, including this court..

The oral pronouncement at the time of sentencing clearly indicates the court’s intention to award 79 days of conduct credit. The abstract of judgment mistakenly shows instead that defendant was awarded 29 days of conduct credit. This court “ ‘has the inherent power to correct clerical errors in its records so as to make these records reflect the true facts.’ [Citations.]” (*People v. Mitchell* (2001) 26 Cal.4th 181, 185, quoting *In re Candelario* (1970) 3 Cal.3d 702, 705.) Accordingly, we order that the abstract of judgment be corrected to award defendant 50 additional days of presentence conduct credit.

DISPOSITION

The superior court is directed to correct the abstract of judgment to reflect the award of 79 days of presentence local conduct credits and forward a certified copy of said abstract to the Department of Corrections and Rehabilitation.

NICHOLSON, J.

We concur:

RAYE, P. J.

ROBIE, J.