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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

MELISSA FANDEL,

Defendant and Appellant.

F071686

(Super. Ct. No. VCF280209)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Tulare County. Gary L. Paden, Judge.

Susan K. Shaler, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Louis M. Vasquez and Lewis A. Martinez, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Kane, Acting P.J., Detjen, J. and Smith, J.

Defendant Melissa Fandel contends on appeal that her six-year probation term exceeds the maximum term authorized by law. The People concede. We agree and reduce defendant's probation term.

PROCEDURAL SUMMARY

On August 9, 2011, the San Luis Obispo County District Attorney charged defendant by an amended complaint with driving under the influence and causing injury (Veh. Code, § 23153, subd. (a);¹count 1), and misdemeanor driving with a blood alcohol content exceeding 0.08 percent and causing bodily injury (§ 23153, subd. (b); count 2). The complaint further alleged that defendant caused bodily injury to more than one victim (§ 23558) and personally inflicted great bodily injury on one of the victims (Pen. Code, § 12022.7).

On October 25, 2011, defendant pled no contest to count 2 and admitted the section 23558 allegation. The remaining count and allegation were dismissed.

On February 16, 2012, a second amended complaint was filed, changing count 2 from a misdemeanor to a felony.

On February 22, 2012, the trial court granted defendant three years' probation, including 210 days of county jail time.

On February 25, 2013, defendant's probation was transferred to Tulare County.

On February 13, 2014, defendant violated probation. The trial court revoked probation. Defendant failed to appear for sentencing.

On July 1, 2014, the trial court reinstated probation and ordered defendant to report in person on August 4, 2014. Defendant failed to report. The court extended the stay of execution on her sentence to February 2, 2015. But defendant failed to report again.

¹ All statutory references are to the Vehicle Code unless otherwise noted.

On May 21, 2015, the trial court found defendant in violation of probation. The court extended her probation term for three more years, and ordered her to report on July 13, 2015, to serve 240 days in custody.

On June 3, 2015, defendant filed notice of appeal.

DISCUSSION

The parties agree that pursuant to Penal Code sections 1203.1 and 1203.2, defendant's maximum probation term was five years from the initial grant of probation on February 22, 2012—that is, a term ending on February 22, 2017. Accordingly, they also agree that the trial court imposed an unauthorized term on May 21, 2015, when it extended defendant's probation by three years to May 21, 2018. Finally, the parties agree that the correct term should include 89 extra days due to the tolling of probation on April 1, 2014, when probation was revoked, until July 1, 2014, when probation was ordered again, and thus the correct term should end on May 21, 2017.

We concur and will correct the term of probation.

DISPOSITION

Defendant's term of probation is modified to end on May 21, 2017. As so modified, the judgment is affirmed. The trial court is directed to amend the minute order and the order of probation, and to forward certified copies to defendant and to the Tulare County Probation Department.