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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

CORTLAND DONALD QUILLING,

Defendant and Appellant.

G051140

(Super. Ct. No. 13CF0536)

O P I N I O N

Appeal from a postjudgment order of the Superior Court of Orange County, Christopher Evans, Commissioner. Affirmed.

Stephen M. Hinkle, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Charles C. Ragland and Marvin E. Mizell, Deputy Attorneys General, for Plaintiff and Respondent.

* * *

INTRODUCTION

Defendant Cortland Donald Quilling pled guilty to one felony count of possession of methamphetamine. The trial court granted a petition to reduce the felony to a misdemeanor, pursuant to Penal Code section 1170.18, subdivision (a), and modified defendant's sentence.

While the postjudgment order was on appeal, the trial court entered an order correcting defendant's sentence, which provided defendant with almost all the relief he sought on appeal. We conclude that those portions of defendant's appeal have been mooted.

One issue remaining for our consideration is the amount of the restitution and postrelease community supervision revocation restitution fines imposed on defendant. Because the fines imposed were authorized by statute, defendant's failure to object to the fines at the hearing on his petition for resentencing waives any objection to them on appeal.

We therefore affirm the postjudgment order, as corrected by the trial court.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Defendant was charged with one felony count of possession of methamphetamine (Health & Saf. Code, § 11377, subd. (a) [count 1]), and one misdemeanor count of making a false representation to a peace officer (Pen. Code, § 148.9, subd. (a) [count 2]). It was alleged that defendant had suffered two prior serious felony convictions (Pen. Code, §§ 1170.12, 667) and six prison priors (Pen. Code, § 667.5, subd. (b)). Defendant pled guilty to both counts; his guilty plea form reads, in relevant part, as follows: “[O]n 2/17/13 I willfully & unlawfully possessed a useable amount of methamphetamine. I also falsely represented myself to a police officer in order to evade the process of the court.” The trial court struck the prior convictions and the prison priors for purposes of sentencing, and sentenced defendant to 16 months on

count 1. The court stayed imposition of the sentence on count 2. The court awarded defendant 32 days of presentence credit.

Defendant filed a petition to reduce count 1 from a felony to a misdemeanor pursuant to Penal Code section 1170.18, subdivision (f), or alternatively pursuant to section 1170.18, subdivision (a). The trial court granted the petition under section 1170.18, subdivision (a), sentenced defendant to 365 days in jail, awarded him 365 days of custody credit, and placed him on one year of parole. Defendant timely filed a notice of appeal.

While this case was on appeal, the trial court entered an order correcting defendant's sentence. The order provides: "1. The sentence for Count 1 is changed to 364 days. [¶] 2. Defendant's total credits are changed to 23 months, 6 days. [¶] 3. Since Defendant's total credits of 23 months, 6 days exceed the confinement time, Defendant's parole period is reduced to 23 days (as to this matter). [¶] 4. The registration requirement under section 11590 of the Health and Safety Code is vacated for this matter."

DISCUSSION

By means of the trial court's order correcting the sentence, defendant has obtained most of the relief he sought on appeal. Defendant's appeal is, therefore, largely moot.¹ The only issue that remains for our consideration is the amount of the fines imposed on defendant.

When defendant committed the crimes at issue in this case, the minimum restitution fine and postrelease community supervision revocation restitution fine for felonies were \$280. (Pen. Code §§ 1202.4, subd. (b)(1), 1202.45, subd. (b).) The

¹ In a supplemental letter brief filed in September 2015, the Attorney General contended that defendant's appeal was not then moot because, in the absence of the order correcting defendant's sentence, defendant would still be on parole until November 24, 2015. The Attorney General's supplemental letter brief conceded that, after that date, the appeal would be moot.

minimum fine for a misdemeanor was \$140, and the maximum was \$1,000. (Pen. Code, § 1202.4, subd. (b)(1).)

The trial court initially imposed fines of \$240 each. At the hearing on defendant's petition for resentencing, defendant did not argue that the fines should be reduced. The Attorney General argues that the failure to request a reduction on the fine amounts constitutes a waiver of the right to challenge the fines on appeal. Defendant argues that because the amounts of the fines imposed were not authorized by statute, it is an unauthorized sentence that may be challenged at any time.

The problem with defendant's argument is that the fines imposed *are authorized by statute*. Starting January 1, 2013, the authorized fines for misdemeanors ranged from \$140 to \$1,000. (Pen. Code, § 1202.4, subd. (b)(1).) Because the fines imposed were within the statutorily authorized range, defendant's failure to object to the fines at the hearing on his petition for resentencing waived the objections on appeal.

DISPOSITION

The postjudgment order, as corrected by the trial court, is affirmed.

FYBEL, J.

WE CONCUR:

MOORE, ACTING P. J.

ARONSON, J.