

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

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 This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.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

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

SAUL MIRANDA ROMAN,

Defendant and Appellant.

G051214

(Super. Ct. No. 10CF1124)

O P I N I O N

Appeal from a postjudgment order of the Superior Court of Orange County, Vickie Hix, Temporary Judge. (Pursuant to Cal. Const, art. VI, § 21.) Reversed and remanded.

Richard Schwartzberg, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Julie L. Garland, Assistant Attorney General, Peter Quon, Jr., and Stacy Tyler, Deputy Attorneys General, for Plaintiff and Respondent.

\* \* \*

In January 2013 defendant pleaded guilty to a single felony count of petty theft with a prior conviction. (Former Pen. Code, § 666, Pen. Code, §§ 484, 488.)<sup>1</sup> He was sentenced to two years in prison and was remanded to custody on January 23, 2013. In December 2014, after the passage of Proposition 47, defendant filed an application to redesignate his felony a misdemeanor pursuant to section 1170.18, subdivision (f), or, in the alternative, to have his conviction reduced to a misdemeanor and be resentenced pursuant to section 1170.18, subdivision (a). The People conceded defendant qualified for relief pursuant to subdivision (a) and requested that the court impose parole. After the court indicated it would grant the request and resentence defendant, defense counsel argued that defendant served two years in prison, and thus he had sufficient custody credits to cover both a one-year jail sentence and one year of parole. However, the court interpreted section 1170.18 as requiring a parole period despite any custody credits. Accordingly, the court resentenced defendant to one year of jail, credited him 365 days in custody, and imposed one year of parole. Defendant appealed.

During the pendency of this appeal, we published *People v. Armogeda* (2015) 240 Cal.App.4th 1039, in which we determined that a person resentenced under section 1170.18, subdivision (a), is entitled to apply excess custody credits against the one-year parole period. (*Armogeda*, at p. 1047 [citing § 2900.5].) By failing to apply defendant's excess custody credits to his parole period, the court erred. Because we do not have an adequate record of defendant's custody credits, however, we will remand to the trial court to calculate the full amount of defendant's credits and to apply that amount to both the jail and parole term.

---

<sup>1</sup>

All statutory references are to the Penal Code.

## DISPOSITION

The judgment is reversed. The matter is remanded to the trial court with instructions to recalculate defendant's parole period by applying any excess custody credits to reduce the parole period pursuant to section 2900.5.

IKOLA, J.

WE CONCUR:

FYBEL, ACTING P. J.

THOMPSON, J.