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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.

ARTURO HERNANDEZ CARRASCO,

Defendant and Appellant.

G052115

(Super. Ct. No. 10CF0337)

O P I N I O N

Appeal from a postjudgment order of the Superior Court of Orange County,  
Craig E. Robison, Judge. Appeal dismissed.

Frank J. Torrano, under appointment by the Court of Appeal, for Defendant  
and Appellant.

No appearance for Plaintiff and Respondent.

\* \* \*

Defendant Arturo Hernandez Carrasco appeals from the trial court's postjudgment order resentencing him to a misdemeanor and imposing parole pursuant to Penal Code section 1170.18, subdivisions (a), (b), and (d).<sup>1</sup> However, while defendant's appeal was still pending, the trial court ordered that his excess custody credits be counted against his parole time and outstanding fines, and that he be immediately discharged from parole. Because defendant has now obtained the relief he sought on appeal, we dismiss his appeal as moot.

### PROCEDURAL HISTORY

On February 23, 2010, defendant pleaded guilty to felony possession of cocaine in violation of Health and Safety Code section 11350, subdivision (a). The court sentenced him to 16 months in state prison.

In April 2015, defendant petitioned under section 1170.18 for the reduction of his 2010 felony conviction to a misdemeanor conviction and for misdemeanor resentencing. At the April 21, 2015 hearing on defendant's section 1170.18 petition, the court found defendant was still serving his sentence because he was still on parole. Over defendant's objection, the court resentenced defendant to continue on parole for one year pursuant to section 1170.18, subdivision (d).

Defendant filed a notice of appeal on June 19, 2015. While defendant's appeal was pending, the trial court ordered on July 23, 2015, that defendant be immediately discharged from parole and all his remaining fines be deemed paid in full, because his custody credits exceeded the period of parole.

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<sup>1</sup>

All statutory references are to the Penal Code unless otherwise stated.

Defendant's appellate counsel filed a brief under *People v. Wende* (1979) 25 Cal.3d 436. Defendant was given an opportunity to file written argument on his own behalf, but he did not do so.

#### DISCUSSION

The court's July 23, 2015 order effectuates section 2900.5's mandate that a defendant's excess custody credits be applied to reduce his or her parole period and eligible fines.<sup>2</sup> Consequently, we are unable to give defendant any relief he has not already received in the trial court. Because defendant has obtained the relief he sought on appeal and is no longer an aggrieved party, his appeal is moot.

#### DISPOSITION

The appeal is dismissed.

IKOLA, J.

WE CONCUR:

ARONSON, ACTING P. J.

FYBEL, J.

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<sup>2</sup>

Although the court lacked jurisdiction to issue a new order during the pendency of defendant's appeal, the People have not appealed from the new order.