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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.

JONATHAN MICHAEL WEDGE,

Defendant and Appellant.

G053388

(Super. Ct. No. 14NF4030)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Robert Gannon, Judge. Affirmed as modified and remanded with directions.

Richard Schwartzberg, 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, Barry Carlton and Karl T. Terp, Deputy Attorneys General, for Plaintiff and Respondent.

THE COURT:^{*}

A jury convicted defendant Jonathan Michael Wedge of second degree robbery. (Pen. Code, §§ 211, 212.5, subd. (c).) The trial court suspended imposition of sentence and placed defendant on formal probation for three years. In reciting the terms of defendant's probation, the court indicated defendant was "to pay the costs of probation according to [his] ability to pay as directed by your probation officer."

The sole issue raised on appeal by defendant is that the court improperly included in his probation conditions the payment of the cost of probation. The Attorney General concedes defendant is correct.

We agree with the parties. "When a court grants probation to a defendant and the defendant does not waive the right to a determination of ability to pay, the court must order the defendant to pay reasonable probation costs if the court determines the defendant has the ability to pay them. [Citation.] The 'reasonable costs of probation . . . are collateral and their payment cannot be made a condition of probation.'" (*People v. Acosta* (2014) 226 Cal.App.4th 108, 126.)

DISPOSITION

We modify the court's probation order to eliminate any requirement that defendant pay the costs of probation as a condition of probation. We affirm, however, the imposition of those costs, and direct the court to enter a separate order directing defendant to pay such costs. In all other respects, the judgment is affirmed.

^{*} Before O'Leary, P. J., Aronson, J., and Fybel, J.