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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

MANUEL ALFONSO AYALA,

Defendant and Appellant.

B242349

(Los Angeles County
Super. Ct. No. LA060702)

APPEAL from an order of the Superior Court of Los Angeles County, Gregory A. Dohi, Judge. Affirmed.

Jonathan B. Steiner and Richard B. Lennon, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance on behalf of Plaintiff and Respondent.

Defendant, Manuel Ayala, appeals from a June 5, 2012 order denying his motion to correct the abstract of judgment. We affirm the order.

Defendant committed attempted robbery in 2008. On March 26, 2009, defendant was sentenced to an aggregate term of nine years in state prison: two years for second-degree attempted robbery (Pen. Code §§ 211, 664, subd.(a)); doubled because of a prior serious felony conviction (Pen. Code §§ 667, subd. (e)(1); 1170.12, subd. (c)(1)); and augmented by five years for a serious-felony enhancement under Penal Code section 667, subdivision (a). Defendant received presentence credit for 117 actual days in custody plus 17 days of conduct credit under Penal Code section 2933.1 subdivision (c).

On August 24, 2010, we decided defendant's appeal of his conviction in an unpublished decision. We ruled defendant was entitled to presentence conduct credits under Penal Code section 4019 because attempted robbery was not a violent felony. (*People v. Ayala* (Aug. 24, 2010, B215108 [nonpub. opn.]).) We concluded defendant should have received credit for 117 actual days in custody plus 58 days of conduct credit, for a total of 175 days. But we held Penal Code section 4019, as amended effective January 25, 2010, did not apply retroactively. Thus, defendant was not entitled to additional custody credit under the amendment.

On June 5, 2012, defendant moved to correct the amended abstract of judgment. Defendant argued he was entitled to 234 days of presentence credit. Defendant contended he should have received 117 days of actual custody and 117 days of conduct credit under the 2010 amendment to Penal Code section 4019. In addition, defendant challenged his post-sentence credit. The trial court denied defendant motion to correct the abstract of judgment. Defendant filed his notice of appeal on June 17, 2012.

After defendant filed his notice of appeal, we appointed counsel to represent defendant. After examination of the record, appointed appellate counsel has filed a brief in which no issues are raised. Instead, appointed appellate counsel has asked us to independently review the entire record on appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441-442. (See *Smith v. Robbins* (2000) 528 U.S. 259, 264.) On September 20, 2012, we advised defendant he had 30 days within which to submit by brief or letter

any contentions or argument he wished this court to consider. Defendant has filed no response. We agree with appointed appellate counsel that no rational argument can be advanced which would benefit defendant. (*People v. Brown* (2012) 54 Cal.4th 314, 320, 330; *People v. Garcia* (2012) 209 Cal.App.4th 530, 533, 540-541.)

The order under review is affirmed.

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TURNER, P. J.

We concur:

MOSK, J.

KRIEGLER, J.