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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

ELGIN TRAMMELL,

Defendant and Appellant.

B278398

(Los Angeles County
Super. Ct. No. KA110388)

APPEAL from a judgment and order of the Superior Court of Los Angeles County, Stacy Wiese, Judge. Affirmed.

Alan S. Yockelson, by appointment of the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Assistant Attorney General, Shawn McGahey Webb and Gary A.

Lieberman, Deputy Attorneys General for Plaintiff and Respondent.

Defendant appeals from his judgment of conviction for sale of a controlled substance (Health & Saf. Code, §11352, subd. (a))¹ and true findings of allegations that he had suffered a prior conviction for a drug crime (§ 11370, subd. (a)), and a prior conviction for a drug crime (§ 11370.2, subd. (a) and had served a prior prison term (Pen. Code, § 667.5, subd. (b).) He was sentenced to a six-year term, consisting of 1460 days in county jail with the remainder to be served on mandatory probation, and was ordered to pay various fees.

Appellant's Opening Brief recounts in detail the procedural history of the case and the evidence presented. A single issue is raised on appeal: imposition of the drug program fee under section 11372.7, subdivision (a). Appellant argues this \$150 fee should not have been imposed because the record is silent on appellant's ability to pay it. Respondent points out that while the trial court ordered defendant to pay the fee, it also imposed a concurrent term of six days in county jail and ordered that serving the six days was concurrent with the 1,460 days and was in lieu of payment of fines. The net result is that appellant, presumably having served the six days, has no remaining fee to pay. Thus, as respondent argues, the issue over the drug program fee is moot. Appellant does not argue otherwise. While the reporter's transcript reflects the in lieu order, the abstract of

¹ All further undesignated statutory references are to this code.

judgment does not. It should be corrected to do so.

DISPOSITION

The judgment is affirmed, and the trial court shall correct the abstract of judgment to conform to the reporter's transcript with respect to payment of the \$150 fine.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

MANELLA, J.