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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.

ROBERT PAEZ,

Defendant and Appellant.

B251347

(Los Angeles County
Super. Ct. No. BA406775)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Craig Richman, Judge. Modified and affirmed.

Goldstein Legal Office and Elana Goldstein, under appointment by the Court of
Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney
General, Lance E. Winters, Assistant Attorney General, Paul M. Roadarmel, Jr. and
Connie H. Kan, Deputy Attorneys General, for Plaintiff and Respondent.

Upon his conviction of assault with a deadly weapon and disobeying a court order, appellant Robert Paez was denied probation and sentenced to five years in state prison. Among other fines assessed was a domestic violence fine, imposed pursuant to Penal Code section 1203.097. Appellant's sole argument on appeal is that this fine should not have been imposed since he was sentenced to prison, not placed on probation. He is correct; the opening language of the statute makes it applicable to "a person granted probation" for particularly described crimes, such as those in this case. Since defendant was not granted probation, the statute does not apply. Respondent correctly concedes this error by the trial court.

DISPOSITION

The judgment is modified to strike the fine imposed under Penal Code section 1203.097. It is affirmed in all other respects. The trial court shall correct the abstract of judgment accordingly. The superior court is directed to prepare an amended abstract of judgment and forward it to the Department of Corrections and Rehabilitation.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

EDMON, J.*

*Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.