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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.

GARY ALBERT THOMPSON,

Defendant and Appellant.

B229963

(Los Angeles County
Super. Ct. No. YA076736)

APPEAL from a judgment of the Superior Court of Los Angeles County, John Vernon Meigs, Judge. Affirmed as modified.

Rita L. Swenor, 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, Susan Sullivan Pithey, Blythe J. Leszkay, and Tasha G. Timbadia, Deputy Attorneys General, for Plaintiff and Respondent.

I. INTRODUCTION

Defendant Gary Albert Thompson was convicted by a jury of one count of first degree burglary in violation of Penal Code section 459. He was sentenced to six years in state prison. Execution of sentence was suspended. Defendant was placed on five years' probation on the condition, among others, that he serve 345 days in the county jail. We modify the judgment and affirm as modified.

II. DISCUSSION

A. Peace Officer Personnel Records

Defendant requested that we independently review the record of the trial court's in camera hearing for review of peace officer personnel records. (*People v. Mooc* (2001) 26 Cal.4th 1216, 1228-1232; *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, 535.) On May 6, 2010, the trial court conducted an in camera hearing. The court found no complaints responsive to defendant's motion. On December 9, 2011, we assigned the trial court to conduct record correction proceedings pursuant to *People v. Mooc, supra*, 26 Cal.4th at page 1231. On February 24, 2012, the trial court filed under seal with this court its transcript of the January 5, 2012 in camera record correction proceedings, together with any papers presented in that hearing. We have reviewed the transcripts of the in camera hearings and any peace officer personnel records presented at those hearings. The trial court did not abuse its discretion in ruling on defendant's peace officer personnel records disclosure motion. (*People v. Hughes* (2002) 27 Cal.4th 287, 330; *People v. Samayoa* (1997) 15 Cal.4th 795, 827.)

B. Presentence Custody Credit

Defendant was arrested on December 20, 2009, and sentenced on October 20, 2010. The trial court gave him credit for 300 days in presentence custody and 45 days of conduct credit. He was entitled to credit for 305 days in presentence custody and 152 days of conduct credit for a total presentence custody credit of 457 days. (*In re Marquez* (2003) 30 Cal.4th 14, 25-26; *People v. Smith* (1989) 211 Cal.App.3d 523, 527.)

C. Court Facilities Assessment

The trial court failed to impose a mandatory court facilities assessment under Government Code section 70373, subdivision (a). (*People v. Woods* (2010) 191 Cal.App.4th 269, 272, 274.) Because defendant was convicted by a jury on May 25, 2010, the correct amount is \$30. (Gov. Code § 70373, subd. (a) as amended by Stats. 2009 (2009-2010 4th Ex. Sess.) ch. 22, § 29, eff. July 28, 2009; *People v. Davis* (2010) 185 Cal.App.4th 998, 1001; see *People v. Castillo* (2010) 182 Cal.App.4th 1410, 1414-1415.)

III. DISPOSITION

The judgment is modified to include a \$30 court facilities assessment (Gov. Code, § 70373, subd. (a)) and to grant defendant credit for 305 days in presentence custody plus 152 days of conduct credit for a total presentence custody credit of 457 days. The judgment is affirmed in all other respects. Upon remittitur issuance, the abstract of judgment must be corrected to accurately reflect the foregoing. The clerk of the superior court shall deliver a copy of the corrected abstract of judgment to the California Department of Corrections and Rehabilitation.

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TURNER, P.J.

We concur:

ARMSTRONG, J.

KRIEGLER, J.