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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE, Plaintiff and Respondent, v. JESUS ANTHONY MORA, Defendant and Appellant.	2d Crim. No. B237514 (Super. Ct. Nos. 2010024910, 2011002749) (Ventura County)

Jesus Anthony Mora appeals from orders revoking his probation in two separate cases and sentencing him to county jail. Appellant contends he is entitled to additional presentence conduct credits under the amended version of Penal Code[1] section 4019 that went into effect on October 1, 2011. Because appellant has fully served the sentence for which he seeks additional credits, we will dismiss the appeal as moot.

On September 29, 2010, appellant was charged in case number 2010024910 (the 2010 case) with grand theft person (§ 487, subd. (c)). Following appellant's guilty plea to the charge, the trial court suspended imposition of sentence and placed him on 36 months formal probation with terms and conditions including that he serve 213 days in county jail.

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1 All further statutory references are to the Penal Code.

On January 25, 2011, appellant was charged in case number 2011002749 (the 2011 case) with disturbing the peace by fighting (§ 415, subd. (1)), with the further allegation that appellant committed the offense for the benefit of a criminal street gang (§ 186.22, subd. (d)). After appellant pled guilty and admitted the truth of the gang enhancement allegation, the court suspended imposition of sentence, placed him on 60 months formal probation, and ordered him to serve 180 days in county jail. The court also revoked and reinstated appellant's probation in the 2010 case, and ordered him to serve a consecutive 90 days in county jail.

The court revoked probation in both cases on September 19, 2011. On November 1, 2011, appellant admitted violating his probation in both cases.

Appellant was sentenced on November 15, 2011. In the 2010 case, the court terminated probation and sentenced appellant to 16 months in county jail. The court calculated appellant's presentence credits under the now-superseded version of section 4019 that was in effect on July 13, 2010, the date appellant committed the crime for which he was committed in the 2010 case. Under that version of section 4019, appellant was entitled to two days of conduct credit for every two days actually served. Appellant was accordingly awarded 396 days presentence credit, consisting of 198 days actual custody credit and 198 days conduct credit.

In the 2011 case, the court terminated appellant's probation and sentenced him to a consecutive eight-month jail term. Presentence credits were calculated under the former version of section 4019 that was in effect on January 23, 2011, the date appellant committed the offense in the 2011 case. That version of section 4019 restored the original rate of two days of conduct credit for every four days in custody. Appellant was accordingly awarded 243 days presentence custody credit, consisting of 163 days actual custody credit and 80 days conduct credit.

Appellant contends, as he did below, that his conduct credits in the 2011 case should have been calculated under the current version of section 4019, which restores "two-for-two" conduct credits. Although the statute expressly states that it only

applies to defendants confined for crimes committed on or after the statute's effective date, appellant asserts that equal protection principles compel a retroactive application.

Appellant's claim is moot because the 243 days of credit he was awarded were sufficient to satisfy his eight-month sentence in the 2011 case.[2] Accordingly, even if he were to prevail on his claim, this court could offer him no relief. Appellant does not seek to clear his name by appealing his conviction. (See, e.g., *People v. Lindsey* (1971) 20 Cal.App.3d 742, 744, and cases cited therein.) Rather, he merely seeks an award of custody credits for a sentence he has fully served. Because no "disadvantatageous collateral consequences" flow from the purported denial of additional custody credits, we dismiss the appeal as moot. (*Ibid.*; *People v. Ellison* (2003) 111 Cal.App.4th 1360, 1368-1369.)[3]

The appeal is dismissed.

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PERREN, J.

We concur:

GILBERT, P.J.

YEGAN, J.

[2] Appellant was sentenced on November 15, 2011. Eight months from that date (i.e., July 15, 2012) amounts to 243 days.

[3] We also note our Supreme Court has rejected appellant's claim that the October 1, 2011 amendment to section 4019 must be applied retroactively in order to comport with equal protection requirements. (*People v. Lara* (2012) 54 Cal.4th 896; see also *People v. Ellis* (2012) 207 Cal.App.4th 1546.)

Bruce A. Young, Judge

Superior Court County of Ventura

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