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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

STEVE BADUE,

Defendant and Appellant.

A171100

(San Mateo County  
Super. Ct. No. 24SF006457A)

Defendant Steve Badue appeals from the trial court’s revocation of his parole. His appointed counsel asked this court to independently review whether there are any arguable issues on appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Counsel advised Badue of his right to file a supplemental brief, and Badue submitted some documents to the court on December 8, 2025, which we have reviewed.

Although this is not Badue’s first appeal as of right from his judgment of criminal conviction, we nonetheless exercised our discretion under *People v. Delgadillo* (2022) 14 Cal.5th 216 to review the record independently. After finding one arguable issue—concerning the absence of a determination by the trial court of Badue’s custody credits and its delegation of that determination to the sheriff or parole authority—we asked the parties to submit supplemental briefing directed to that issue.

Our supplemental briefing order required the parties to address, first, whether any issue regarding the trial court's credits determination and delegation is moot based on events that occurred after the filing of the notice of appeal and, second, if the issue is not moot, whether the trial court erred by delegating the determination of credits Badue might have been entitled to and, if the court erred, what relief should be ordered.

Having considered the briefing submitted pursuant to our supplemental briefing order, we conclude that the custody credits issues raised in that order are moot.

## **I. BACKGROUND**

In 2021, Badue was convicted of causing serious bodily injury to a peace officer (Pen. Code,<sup>1</sup> § 148.10, subd. (a)) and resisting an executive officer with threat or violence (§ 69). He received a two-year sentence. He was released on parole in April 2022.

### ***A. The Petition To Revoke Badue's Parole***

In April 2024, the Redwood City parole authority for the California Department of Corrections and Rehabilitation (Parole Unit) petitioned San Mateo Superior Court for revocation of Badue's parole. The Parole Unit alleged that in May 2022, Badue, a high-risk sex offender, executed a written notice of the conditions of his parole, indicating his understanding of them. These conditions include that he report to his parole officer within one working day of his release from custody, participate in continuous GPS monitoring, and register as a sex offender in compliance with section 290 due to multiple prior convictions for indecent exposure.

According to the Parole Unit, Badue subsequently violated parole and served a jail term until he was again released on parole on March 20, 2024.

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<sup>1</sup> Undesignated statutory references are to the Penal Code.

He was required to report by close of business the next day to the Parole Unit but did not. At the Parole Unit's request, the court suspended Badue's parole and issued a warrant for his arrest. Badue was arrested on April 17, 2024, and booked into San Francisco County jail, then transferred a few days later to San Mateo County jail.

After Badue's arrest, the Parole Unit further alleged, a review of the California Sex and Arson Registry indicated that he had not updated his registration as required within five working days of his March 20 release from custody. He also failed to report for GPS monitoring. Further, he had an extensive history of refusing to submit to parole supervision and failing to comply with his sex offender registration requirements.

***B. Badue's Motion To Represent Himself***

Badue moved under *Faretta v. California* (1975) 422 U.S. 806 to represent himself regarding the parole revocation petition. At a hearing on his motion, the court stated that Badue had brought a previous *Faretta* motion before another judge on January 24, 2024, which the judge denied (neither the motion nor the denial are contained in the record). It asked Badue what had changed since the denial of that motion. Badue responded by contending that he had been assaulted by police officers. He also asserted that his previous *Faretta* motion was denied only because the case was dismissed. He argued against his parole revocation and referred to several previous cases of his, contending that he represented himself in some and was represented by counsel in others. Concluding that Badue was not arguing anything different than he had in his previous motion and was merely contending that he was innocent and had more time to register, the court denied the motion.

### ***C. The Hearing on the Petition To Revoke Badue's Parole***

At the parole revocation hearing, held on May 17, 2024, the People presented the testimony of Badue's parole officer, Paul Onto. Onto testified that Badue was required to, but did not, report to him within 24 business hours of his release from San Mateo County jail on March 20, 2024; was required to register as a sex offender under section 290 within five business days of his release and did not; and was required upon release to get a GPS monitoring bracelet and did not. Onto also testified that at some point after violating his parole, Badue left a voice mail message for Onto saying he did not need to, and was not going to, report to parole. Also, Onto said, the court had told Badue at his previous parole revocation hearing of his obligation to report to parole within 24 hours of his release from custody, and in May 2022 Badue had signed a special conditions of parole form that included his GPS monitoring requirement.

Badue also testified at the May 17, 2024 parole revocation hearing. He said that the morning after his release from jail on March 20, 2024, he told Onto by phone that he was going to come in that afternoon. Onto told him, "[L]ook don't even worry about it, I'm going to discharge your parole in the next 30 days," and did not say anything about GPS monitoring. Onto also said Badue did not qualify for GPS monitoring, and that he could register as a sex offender within 30 days.

After that phone call, Badue testified, he forgot to call Onto back to get his discharge done and "a whole bunch of other things happened." He was arrested when he went to register as a sex offender.

At the conclusion of the hearing, the trial court granted the petition. It sentenced Badue to 180 days in custody "with proper credits." However, the court did not award Badue any credits, although he apparently had been in custody since his arrest on April 17, 2024. In its minute order, the court

stated, “The Sheriff’s Office will calculate the credits,” and also stated, “Credit for time served to be determined by the Sheriff’s Office or Probation Department.”

Badue filed a timely notice of appeal.

As we have discussed, we gave the parties the opportunity to submit briefing regarding the trial court’s lack of determination, and delegation of the determination, of credits to which Badue might be entitled, and whether any such issue is moot because of post-appeal events.

Both Badue and the Attorney General submitted supplemental briefing. Each also requested that we take judicial notice of certain documents and a declaration from the same parole agent with the California Department of Corrections and Rehabilitation regarding Badue’s time in custody. We hereby grant those requests for judicial notice pursuant to Evidence Code sections 452 and 459.

The parole agent states in his first declaration, dated December 8, 2025 and submitted by Badue, that Badue was released from custody on October 14, 2024 according to documentation the agent attached to his declaration. This release date would have been approximately 180 days from Badue’s April 17, 2024 arrest and about 150 days from the May 17, 2024 parole revocation hearing. According to the parole agent, Badue is scheduled to be discharged from parole on June 15, 2026.

However, in the parole agent’s second declaration, dated December 15, 2025 and submitted by the Attorney General, the parole agent made a correction. He stated that he had misread the documentation he had relied on in his first declaration. Relying on that and further documentation, he stated that Badue was actually released from custody on July 17, 2024.

## II. DISCUSSION

At a parole revocation hearing, the prosecution bears the burden of proving that a parole violation has occurred by a preponderance of the evidence. (§ 3044, subd. (a)(5); see also *People v. Rodriguez* (1990) 51 Cal.3d 437, 446–447.) We review a revocation order for abuse of discretion, and review the court’s factual findings for substantial evidence. (*People v. Butcher* (2016) 247 Cal.App.4th 310, 318 [discussing standard in the context of a probation revocation hearing]; see also *People v. Rodriguez*, at pp. 441–447.)

The record plainly shows substantial evidence in support of the trial court’s revocation of Badue’s parole. Other than the issue of conduct credits that we raised in our supplemental briefing order, we do not see any arguable issues on appeal.

As for the credits issue, generally a trial court at sentencing has the responsibility to award a defendant the custody and conduct credits to which he or she is entitled. Section 2900.5, subdivision (d), reads: “It is the duty of the court imposing the sentence to determine the date or dates of any admission to, and release from, custody prior to sentencing and the total number of days to be credited . . . . The total number of days to be credited shall be contained in the abstract of judgment . . . .” (See *People v. Buckhalter* (2001) 26 Cal.4th 20, 30 [“‘[T]he court imposing a sentence’ has responsibility to calculate the exact number of days the defendant has been in custody ‘prior to sentencing,’ add applicable good behavior credits earned pursuant to section 4019, and reflect the total in the abstract of judgment.”].)

But we need not address whether the trial court improperly delegated or improperly failed determine conduct credits. As the Attorney General

points out, “ ‘Moot cases . . . are “[t]hose in which an actual controversy did exist but, by the passage of time or a change in circumstances, ceased to exist.” ’ [Citation.] ‘The pivotal question in determining if a case is moot is . . . whether the court can grant the plaintiff any effectual relief.’ [Citation.] [¶] ‘[M]oot appeals generally should be dismissed. [Citations.] . . . ’ ” (*People ex rel. Alameda County Taxpayers’ Assn., Inc. v. Brown* (2025) 114 Cal.App.5th 919, 931–932.) There is no effective relief we could order even if there was error here in connection with the determination of conduct credits.

Both Badue and the Attorney General agree that Badue was released from custody in 2024 after serving the sentence imposed on him for his parole violation, even if they may disagree on the date when he was released. According to the Attorney General, any error that may have been made in connection with conduct credits is moot now that Badue has been released. Badue does not disagree; in fact, he does not address the issue of mootness at all. We conclude that the Attorney General is correct. The conduct credits issues raised in our supplemental briefing order are moot.

We further note that it appears Badue did receive significant credits. Badue was arrested on April 17, 2024, and on May 17, 2024, the trial court sentenced him to serve 180 days in custody. The parole agent indicates in his second declaration that Badue was released on July 17, 2024. This suggests Badue received significant credits. On the other hand, Badue’s assertion that he was not released until October 17, 2024 is supported only by a statement that the declaring parole agent later retracted. Thus, Badue’s assertion about the timing of his release is not supported by any evidence.

### **III. DISPOSITION**

The judgment is affirmed.

STREETER, J.

WE CONCUR:

BROWN, P. J.

GOLDMAN, J.