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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

DENIS PERALTA,

Defendant and Appellant.

A129496

(City & County of San Francisco  
Super. Ct. No. 2285452)

Defendant Denis Peralta appeals from orders of the trial court revoking his probation and sentencing him to three years in state prison for his March 2007 conviction of assault with force likely to produce great bodily injury. His counsel has asked this court for an independent review of the record to determine whether there are any arguable issues. (*People v. Wende* (1979) 25 Cal.3d 436.) Because defendant did not request a certificate of probable cause, our examination of the record is limited to matters occurring after the plea was entered, i.e., the revocation of probation and the imposition of sentence. Defendant was notified of his right to file a supplemental brief, but has not done so. Upon independent review of the record, we conclude that no arguable issues are presented for review and affirm the judgment.

**Background**

On March 2, 2007, defendant pled guilty to one count of assault with force likely to produce great bodily injury. Imposition of sentence was suspended and defendant was placed on probation for three years. Defendant's probation was revoked and reinstated in May 2007, February 2008 and February 2010.

On April 28, 2010, the district attorney filed another motion to revoke defendant's probation based on his arrest for vandalism, resisting an officer and attempted robbery. At a contested hearing on July 6, a police officer testified that he saw defendant and another suspect hitting a man lying on the ground. The men ran when the officer approached and told them to stop. The officer chased defendant into a backyard where he was eventually arrested. The victim identified defendant at the time of his arrest as one of the men who attacked him. At the conclusion of the hearing, the court revoked defendant's probation. The court imposed the midterm sentence of three years on the original assault conviction. Defendant was awarded 141 days actual custody credit and 70 days credit under Penal Code section 4019. Defendant filed a timely notice of appeal.

While this appeal was pending, defendant filed a request in the trial court to correct an error in the calculation of his custody credits under Penal Code section 4019. The court granted the request and awarded defendant an additional 70 days' credit under section 4019. The court's order also amended the abstract of judgment to reflect the proper 281 total days credit. The appellate record was augmented to reflect entry of this order.

### **Discussion**

Substantial evidence supports the finding that defendant violated the terms and conditions of probation. The trial court did not abuse its discretion in refusing to reinstate defendant's probation for a fourth time. Nor did the court err in imposing the three-year prison sentence. Defendant's custody credits, as modified by the December order, were properly calculated. Defendant was adequately represented by counsel throughout the proceedings.

**Disposition**

The judgment is affirmed.

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Pollak, J.

We concur:

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McGuiness, P. J.

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Jenkins, J.

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