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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.

MALIK ALI MUHAMMAD,

Defendant and Appellant.

A106795

(Alameda County  
Super. Ct. No. 144082)

Appellant Malik Ali Muhammad was convicted by a jury of stalking (Pen. Code, § 646.9, subd. (a)),<sup>1</sup> and of issuing criminal threats (§ 422). Imposition of sentence was suspended, and probation was granted,<sup>2</sup> on conditions that included payment of a \$200 restitution fine under section 1202.4, subdivision (b)) (hereafter § 1202.4(b)).<sup>3</sup> When appellant was sentenced after revocation of his probation, the court imposed an additional section 1202.4(b) restitution fine of \$400,<sup>4</sup> and a matching parole revocation restitution fine of \$400 under section 1202.45.

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

<sup>2</sup> We recently affirmed this judgment. (*People v. Muhammad* (Feb. 22, 2005, A104207) [nonpub. opn.].)

<sup>3</sup> The parties erroneously identify the amount of this fine as \$400.

<sup>4</sup> The minute order for the sentencing hearing states that the court was “reaffirm[ing]” a \$400 fine, but it is not disputed that the \$400 fine at sentencing was a new fine that was imposed in addition to the one imposed when probation was granted.

Appellant argues, and respondent concedes, that it was error to impose the additional section 1202.4(b) fine at sentencing. (*People v. Chambers* (1998) 65 Cal.App.4th 819, 820-821 [restitution fine imposed on grant of probation survives revocation of probation; no additional fine upon revocation is authorized].) We note also that the section 1202.45 fine must be reduced to \$200, to conform to the amount of the original section 1202.4(b) fine. (See § 1202.45 [fines under the statutes must be equal].)

Accordingly, the judgment is modified by striking the new section 1202.4(b) fine of \$400, and reducing the section 1202.45 fine to \$200. As so modified, the judgment is affirmed. The trial court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment showing a section 1202.4(b) fine of \$200, noting that the section 1202.4(b) fine was imposed when probation was granted, and showing a section 1202.45 fine of \$200.

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Kay, P.J.

We concur:

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Sepulveda, J.

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Rivera, J.