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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

WINNFRED WRIGHT et al.,

Defendants and Appellants.

A102291, A102824

(Super. Ct. Nos. SC123202A, SC123202D)

**ORDER MODIFYING OPINION  
AND DENYING REHEARING  
[CHANGE IN JUDGMENT]**

**THE COURT:**

After consideration of the defendant’s petition for rehearing, it is ordered that the opinion filed herein on February 23, 2005, be modified in the following particulars:

1. The entire paragraph beginning at the bottom of page 22 and continuing to the top of page 23, which begins with the words “We regard” and ends with the words “statutory interpretation on appeal” is deleted and the following two paragraphs are inserted:

The decision in *People v. Stone* (2004) 123 Cal.App.4th 153, decided during the pendency of the appeal, supports Wright’s position. The *Stone* court reversed restraining orders that “were not limited to the pendency of the criminal proceeding and were not a probation condition” (*id.* at p. 160) on the ground that Penal Code section 136.2 is implicitly limited to these situations. The court held: “Although section 136.2 does not indicate on its face that the restraining orders it authorizes are limited to the pendency of the criminal action in which they are issued or to probation conditions, it is properly so construed. It authorizes

injunctions only by courts with jurisdiction over criminal proceedings and is aimed at protecting only ‘victim[s] or witness[es],’ an indication of its limited nature and focus on preserving the integrity of the administration of criminal court proceedings and protecting those participating in them. . . . The narrower scope of section 136.2 suggests that the Legislature did not intend it to authorize restraining orders beyond those germane to the proceedings before the criminal court.” (*People v. Stone, supra*, at p. 159.)

The People argue that the limited objection of defense counsel did not extend to interpretation of Penal Code section 136.2. “But the imposition of a sentence for which there is no statutory authority is jurisdictional error [citation]; hence if such an error comes to our attention in a case pending before us, it is subject to correction.” (*People v. Davis* (1981) 29 Cal.3d 814, 827, fn. 5.) “[R]eviewing courts have routinely corrected ‘unauthorized sentences’ or sentences entered in ‘excess of jurisdiction’ regardless of whether an objection or argument was raised in the trial and/or reviewing court.” (*People v. Welch* (1993) 5 Cal.4th 228, 235.) We therefore are compelled to reverse the no-contact order in the judgment.

2. The third paragraph of the disposition on page 41 is revised to state:

The no-contact order in the Wright judgment is deleted. The clerk of the superior court is directed to modify the abstract of judgment in the *People v. Winnfred Wright* matter, case No. SC123202A, on page two, item No. 11, entitled “Other Orders” by deleting the entire “no contact” language. The clerk is to then forward a copy of the amended abstract of judgment to the California Department of Corrections. In all other respects, the judgments are affirmed.

There is a change in the judgment.

The petition for rehearing is denied.

Date: March 25, 2005

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Marchiano, P. J.