

[Attorney name  
Attorney address  
Attorney phone number]

[Date]

Hon. [Name]  
[County] County Superior Court  
[Address]

Re: Request for Correction of Presentence Credits (Pen. Code, § 1237.1)

*People v. [Case Name]*  
[County] County Superior Court No. [#####]  
First District Court of Appeal No. [A#####]

Dear Judge [Xxxxx],

I represent [appellant] on appeal. I am writing to request that the abstract of judgment in this case be amended to reflect an additional amount of presentence credits. As the court is no doubt aware, both Penal Code section 1237.1 and the Court of Appeal require that errors in the award of presentence credits first be brought to the attention of the sentencing court, even when the matter is pending on appeal. (*People v. Scott* (1993) 17 Cal.App.4th 1383, 1388, fn. 7; *People v. Fares* (1993) 16 Cal.App.4th 954, 959-960.) An erroneous award of presentence custody credits is an act in excess of jurisdiction and therefore may be corrected by the sentencing court whenever brought to its attention. (*People v. Jack* (1989) 213 Cal.App.3d 913, 917; *Wilson v. Superior Court* (1980) 108 Cal.App.3d 816, 818-819.) Pursuant to Penal Code section 1237.1, a noticed motion is no longer required in order to preserve an appellant's right to appellate review of the superior court's ruling on a request for additional presentence credits, and thus appellant submits this informal request.

[Describe facts and law supporting additional credits. If necessary, include portions of the record to support the request, including the abstract of judgment.]

Based on the foregoing, [appellant] requests that the Court issue an amended minute order of the [date] sentencing hearing and an amended abstract of judgment reflecting [##] days of custody credits (Pen. Code, § 2900.5) and [##] days of conduct credit (Pen. Code, § [4019 or 2933.1]), for a total of [##] days

of presentence credits. Copies of the amended minute order and amended abstract of judgment reflecting the appropriate credits must be provided to the Court of Appeal, to counsel for the People, and to the undersigned. (Cal. Rules of Court, rule 8.340(a)(1).) A certified copy of the amended abstract of judgment should also be forwarded to the California Department of Corrections and Rehabilitation. (*People v. Aubrey* (1999) 70 Cal.App.4th 1088, 1108.)

Thank you for your attention to this matter. Please contact me if I may be of any further assistance regarding this request.

Sincerely,

[Attorney name]

Encl.: [Describe any documents submitted in support of the request.]

cc: See attached proof of service [Service to district attorney, trial counsel, Court of Appeal, Attorney General, FDAP, and client.]