

Parts in blue print are instructions to user, not to be included in filed document unless so noted. [Parts and references in green font, if any, refer to juvenile proceedings. See Practice Note, this web page, for guidance in adapting forms to juvenile cases.]

Practice Tip: When the credits issue is not the sole issue raised on appeal, the credits issue can be raised on appeal without first presenting it to the trial court. (*People v. Florez* (2005) 132 Cal.App.4th 314, 318, fn.12; *People v. Acosta* (1996) 48 Cal.App.4th 411, 427.) In those situations, within the spirit of section 1237.1 and because it is sometimes more practical, appellate counsel might still first seek correction of the error in the trial court.

[Letterhead]

[Date]

Honorable [name]  
Superior Court of [name] County  
[Address]

Re: *People v. [Client's name]* / *In re [client's first name, last initial]*  
Superior Court No. [number]  
Court of Appeal No. [number]  
Penal Code Section 1237.1 Request for Correction of Credits

Dear Judge [name]:

I have been appointed by the Court of Appeal to represent defendant/appellant [full name, unless juvenile], on appeal. In my review of the appellate record, I have identified an error in custody credits that may and should be corrected by this court. Penal Code section 1237.1 requires a motion to the superior court to correct custody credits as a prerequisite for appealing incorrect custody credits. Effective January 1, 2016, the motion may be made informally in writing. (Pen. Code, §1237.1, as amended by Stats. 2015, ch. 194, § 2.)

This court has statutory jurisdiction to consider the matter even while the direct appeal is pending. (Pen. Code, §1237.1, as amended by Stats. 2015, ch. 194, § 2; see *People v. Taylor* (2004) 119 Cal.App.4th 628, 647 [error on legally mandated custody credit is unauthorized sentence that may be corrected at any time].) Please accept this as an informal letter request to correct the credits.

Defendant [name] was charged with [state offenses and relevant statutory provisions]. On [date], [she / he] [pleaded guilty / was found guilty] of [offenses]. [Under a plea bargain,] defendant was sentenced to [state sentence and, if applicable,

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*how it was calculated or stipulated]. Attached are copies of [relevant documents such as the information, change of plea form, probation report, abstract of judgment, and minute order of plea and sentencing].)*

At sentencing defendant was credited with [number] days of custody credits, based on [number] days of actual days of custody and [number] days of conduct credit. For the reasons that follow, the calculation was erroneous.

*[State legal argument. Depending on the error in question, this portion must be modified to any particular case.] [If this is a juvenile delinquency proceeding, discuss entitlement to credits under juvenile law. (See, e.g., Welf. & Inst. Code, § 726, subd. (d); In re Eric J. (1979) 25 Cal.3d 522.)]*

I respectfully request that the abstract of judgment be amended to show [number] days of actual days of custody and [number] days of conduct credit.

If the court grants this informal request, the clerk of the court must [augment the appellate record with the amended abstract of judgment and any related minute order. (Cal. Rules of Court, rule 8.340(a)(1).)/ **notify the appellate court and all parties entitled to the record under rule 8.409. (Cal. Rules of Court, rule 8.410(b)(2).)]** Counsel also requests the clerk forward the amended abstract of judgment to the [Department of Corrections and Rehabilitation / **Division of Juvenile Facilities**].

Respectfully submitted,

*[Attorney's name]*  
State Bar No. [number]  
Attorney for Defendant [name]

Encls.

**PROOF OF SERVICE**

*[Include district attorney and trial counsel.]*