S214409

COPY

LIU, J.

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, **v.** **DAVID EDWARD PALMER,** Defendant and Appellant.	No. _____ Court of Appeal Case No. H036979 Santa Clara County Superior Court Case No.:C1094540

SUPREME COURT
FILED

AUG 02 2012

Frank A. McGuire Clerk

Deputy

PETITION FOR REVIEW

Jean M. Marinovich
Attorney at Law
P.O. Box 2079
Aptos, CA 95001
(831) 722-1369
State Bar # 157848
Email: jean.marinovich@comcast.net

Attorney for Appellant
Appointed by the Court of Appeal
on an Independent Basis

RECEIVED

AUG 01 2012

CLERK SUPREME COURT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

California Rules of Court

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, **v.** **DAVID EDWARD PALMER,** Defendant and Appellant.	No. _____ Court of Appeal Case No. H036979 Santa Clara County Superior Court Case No.:C1094540

PETITION FOR REVIEW

TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF CALIFORNIA:

Appellant David Edward Palmer petitions this Court for review following the decision of the Court of Appeal, Sixth Appellate District, filed in that court on July 2, 2012. A copy of the decision of the Court of Appeal is attached hereto as Exhibit A.

QUESTION PRESENTED

1. Does a bare stipulation to a factual basis accompanied by reference to reports that are not included in the record satisfy the requirement of Penal Code section 1192.5?

2. Must a specific breakdown of the statutory bases for penalty assessments be included in the probation order?

NECESSITY FOR REVIEW

A grant of review and resolution of this issue by this Court is necessary to settle an important question of law pursuant to California Rules of Court, rule 8.500(b)(1).

STATEMENT OF THE CASE AND FACTS

The parties stipulated to a factual basis without reference to a police report or other factual document. (RT 8.) There was no preliminary hearing, and appellant waived a fully probation report. (RT 7-8; CT 10.) Therefore, the record does not supply any facts.

On December 9, 2010, a Complaint was filed in Santa Clara County Superior Court case number C1094540 charging appellant David Palmer with violation of Health and Safety Code sections 11378, felony possession of MDMA for sale (count 1), and 11359, felony possession of marijuana for sale (count 2). (CT 2.)

On January 6, 2011, appellant was arraigned and pled not guilty to the charges. (CT 6.)

On March 18, 2011, appellant pled no contest to count 1 in exchange for a grant of probation and dismissal of count 2. (CT 9.)

On May 20, 2011, the court suspended imposition of sentence, placed appellant on probation, and ordered him to serve 270 days in county jail. (CT 18-19.) In addition, the court ordered him to pay fines plus penalty assessments under Health and Safety Code sections 11372.5 and 11372.7. (CT 18-19.)

On May 26, 2011, appellant timely filed a Notice of Appeal "based on the sentence or other matters occurring after the plea that do not affect the validity of the plea." (CT 22.) On September 7, 2011, appellant filed a Request for Permission to file a Request for a Certificate of Probable Cause under the Constructive Filing Doctrine, which was granted on October 20, 2011. (SCT 1.)

On October 8, 2011, appellant filed a Notice of Appeal and Request for a Certificate of Probable Cause in the Superior Court. (SCT 3-4.) On November 2, 2011, the Superior Court granted the request for a certificate. (SCT 4.)

ARGUMENT

I.

THE CASE MUST BE REMANDED FOR A PROPER FACTUAL BASIS INQUIRY

During the plea, the parties entered into a bare stipulation that there was a factual basis. (RT 8.) The parties referred to no document containing facts supporting the plea, and the record contains none. Therefore, the case must be reversed.

A. Facts

On March 18, 2011, appellant purportedly pled guilty to violating Health and Safety Code section 11378. In taking the plea, the prosecutor initiated the following colloquy regarding a factual basis for the plea:

> MS. TRAN: Do you stipulate, Ms. Randisi, there's a factual basis for the plea as the People do?

MS. RANDISI: Yes, I do stipulate.
MS. TRAN: And do you also waive your preliminary examination in which you have all the constitutional rights that the Court has previously stated that you would for a trial?
THE DEFENDANT: Yes.

(RT 8.) Appellant waived a full probation report. (RT 7.) The court never indicated that it found a factual basis for the plea.

On May 20, 2011, the trial court suspended imposition of judgment, granted appellant probation, and sentenced him to serve 270 days in county jail. (RT 14.)

B. A Bare Stipulation to a Factual Basis Is Insufficient

In *People v. Holmes* (2004) 32 Cal.4th 432, this Court held that the trial court "must garner information" regarding the factual basis. (*Id.*, at p. 436.) If there is a stipulation, it should reference a document that provides a sufficient factual basis for each element of the offense. (*Ibid.*) A bare statement by the court that a factual basis exists is insufficient. (*Ibid.*) This Court left open whether a bare stipulation by the parties was sufficient. (*Id.*, at p. 441.)

In *People v. Willard* (2007) 154 Cal.App.4th 1329, the Court of Appeal held that a bare stipulation by the parties was insufficient. In *Willard*, the defendant stipulated that there was a factual basis and that the court could take the facts from the reports. (*Id.*, at p. 1332.) However, there were no such reports in the record. (*Id.*, at p. 1334.) As a result, the Court of Appeal found that the court's finding of a factual basis was insufficient and reversed. The error was not harmless because the record

did not contain any documents which provided a sufficient factual basis. (*Id.*, at pp. 1334-1335.)

C. The Court Failed to Elicit a Sufficient Factual Basis for the Plea

The same deficiency exists in this case. The parties gave a bare stipulation that there was a factual basis for the plea. (RT 8.) There is no document (police report, preliminary hearing transcript, or probation report) which provides any facts at all. Therefore, the error is not harmless, and the conviction must be reversed. (*People v. Willard, supra,* 154 Cal.App.4th at p. 1334-1335.)

The Court of Appeal nevertheless upheld the plea. (Ex. A at 5-6.) The Court did not discuss *Willard,* but relied on its previous opinion in *People v. Voit* (2011) 200 Cal.App.4th 1353 to hold that a sufficient inquiry was made when the prosecutor asked appellant whether he had reviewed the charges and possible defenses with his counsel and was satisfied with his advice. (Ex. A at 5.)

Appellant contends that *Voit* is significantly distinguishable. In *Voit,* the parties stipulated to use of the preliminary hearing transcript, which was a part of the record. (*People v. Voit, supra,* 200 Cal.App.4th at p. 1362.) The Court of Appeal opinion includes a lengthy recitation of the facts adduced at the preliminary hearing. (*Id.*, at pp. 1359-1361.)

D. Conclusion

The prosecutor's inquiry into whether appellant discussed the charges and defenses with his attorney does not satisfy the trial court's duty to make a sufficient inquiry into the facts.

II.

THE CASE MUST BE REMANDED FOR THE TRIAL COURT TO CORRECT THE AMOUNT OF PENALTY ASSESSMENTS AND INCLUDE THE STATUTORY BASES IN THE PROBATION ORDER

At sentencing, the Superior Court ordered appellant to pay fines "plus penalty assessments." (RT 17.) The probation order merely states the total amounts of the penalty assessments; it does not include a breakdown of the statutory bases. (CT 18.) The Superior Court failed to include a detailed breakdown of penalty assessments following appellant's informal letter request. The Court of Appeal refused to remand to correct this error because the total amount was supported. (Ex. A at 6-7.)

A. Facts

Appellant was charged with Health and Safety Code sections 11378 (count 1) and 11359 (count 2). (CT 1.) On March 18, 2011, he pled no contest to count 1, with the understanding that count 2 would be dismissed and he would be placed on probation and serve 9 months in county jail. (CT 9.) Appellant waived a full probation report. (RT 8.) The probation officer filed an abbreviated report which included a list of recommendations. (CT 14-17.)

On May 20, 2011, the Superior Court suspended imposition of judgment and placed appellant on probation consistent with the plea. (RT 14.) The Court also ordered fees as follows:

> $50 criminal laboratory analysis fee plus penalty assessments shall be imposed. Additionally, a $150 drug program fee plus penalty assessments shall be imposed.

(RT 17.) The Minute Order states the fees as follows:

DPF $150 + PA $450
LAB $ 50 + PA $150

(CT 18.) Thus, the minute order does not include a breakdown of the various penalty assessments by amount or statute.

On August 15, 2011, appellant filed an informal letter request for a specific breakdown of the statutory bases for the penalty assessments attached to the Health and Safety Code fines. (See Ex. A attached to Motion to Augment.) On August 18, 2011, the Superior Court addressed the issue by correcting the minute order. (ACT 1.) However, the corrections merely reference Health and Safety Code section 11372.5 and Penal Code section 1464. (ACT 1-2)

B. A Probation Order Must Include a Detailed Breakdown of the Statutory Bases for All Penalty Assessments Applied

In *People v. High* (2004) 119 Cal.App.4th 1192, the Court of Appeal held that courts are required to include a detailed breakdown of all the fines, fees and penalty assessments in the abstract of judgment.

> Although we recognize that a detailed recitation of all the fees, fines and penalties on the record may be tedious, California law does not authorize shortcuts. All fines and fees must be set forth in the abstract of judgment. [Citations.] The abstract of judgment form used here, Judicial Council form CR–290 (rev. Jan. 1, 2003) provides a number of lines for 'other' financial obligations in addition to those delineated with statutory

> references on the preprinted form. If the abstract does not specify the amount of each fine, the Department of Corrections cannot fulfill its statutory duty to collect and forward deductions from prisoner wages to the appropriate agency. [Citation.] At a minimum, the inclusion of all fines and fees in the abstract may assist state and local agencies in their collection efforts. [Citation.] Thus, even where the Department of Corrections has no statutory obligation to collect a particular fee, such as the laboratory fee imposed under Health and Safety Code section 11372.5, the fee must be included in the abstract of judgment. [Citation.]

(*People v. High, supra,* 119 Cal.App.4th at p. 1200.)

In *People v. Eddards* (2008) 162 Cal.App.4th 712, the Court of Appeal held that the same rule applies to probation orders:

> Section 1213 provides in relevant part: "When a probationary order ... has been pronounced, a copy of the entry of that portion of the probationary order ordering the defendant confined in a city or county jail as a condition of probation ..., and a Criminal Investigation and Identification (CII) number shall be forthwith furnished to the officer whose duty it is to execute the probationary order ..., and no other warrant or authority is necessary to justify or require its execution. [¶] (b) If a copy of the minute order is used as the commitment document, the first page or pages shall be identical in form and content to that prescribed by the Judicial Council for an abstract of judgment, and other matters as appropriate may be added thereafter." (See *People*

> *v. Hong* (1998) 64 Cal.App.4th 1071, 1076, 76 Cal.Rptr.2d 23.)
>
> Thus, although no abstract of judgment was issued, section 1213 required the trial court to furnish the executive officer with a commitment document (probation minute order) bearing the "form and content" required for an abstract, as expounded by this court in *People v. High, supra,* 119 Cal.App.4th at page 1200, 15 Cal.Rptr.3d 148. The present minute order, which omits the statutory bases of most fines and fees, does not satisfy this standard. On remand, the trial court shall prepare an order specifying the statutory bases of all fees, fines, and penalties imposed upon defendant.

(*Id.*, at p. 718, footnote omitted.)

Thus, where fines and penalty assessments are ordered, the relevant sentencing order must include a breakdown of their statutory bases.

C. The Penalty Assessments Are Authorized but Not Specified

The Superior Court's order of fines pursuant to Health and Safety Code sections 11372.5 and 11372.7 trigger the following penalty assessments:

Fines:

H&S Code § 11372.5		$50	§ 11372.7	$150

Penalty Assessments:

Penal Code § 1464	(100%)	50	150
Penal Code § 1465.7	(20%)	10	30
Gov. Code § 76000	(70%)	35	105
Gov. Code § 76000.5	(20%)	10	30

Gov. Code § 76104.6 (10%)	5	15
Gov. Code § 76104.7 (30%)	5	45
Gov. Code § 70372 (50%)	25	75
Total:	135	450
Grand Totals:	$190	$600

The corrected minute order reflects the following notations:

DPF $ 150 + PA $450 - > pursuant to PC 1464
LAB $ 50 + PA $150 - > pursuant to HS CODE 11372.5

(ACT 1-2.) Thus, the order does not reflect the breakdown of all statutory bases for the assessments.

D. Accurate Imposition of Assessments Does Not Excuse Inclusion of the Statutory Bases in the Order

The Court of Appeal acknowledged the importance of a recitation of the statutory bases for all penalty assessments imposed. (Ex. A at 7.) However, the Court declined to remand for the Court to make the correction because of economical concerns. (Ex. A at 7.) "Given that defendant's counsel has correctly identified the 'specific breakdown' of the statutory bases for the penalty assessments . . . we see no reason to remand the matter to the trial court for an amendment to the order of probation." (Ex. A at 7.)

Appellant contends that the information may not be omitted from the probation order. The Court of Appeal in *People v. High, supra,* 119 Cal.App.4th 1192 noted that "California law does not authorize shortcuts." (*Id.,* at p. 1200, see also *People v. Eddards, supra,* 162 Cal.App.4th at p. 718.) The rule is necessary so that the agencies collecting the funds can properly

allocate them. (*Ibid.*) The proper remedy for judicial economy is to encourage the trial courts to perform the legally-required procedures, providing the statutory bases for all fees, fines and penalties in the abstracts and probation orders, which would eliminate the cost of appealing the issue and provide the departments of corrections and probation with the information for proper allocation of funds without reference to appellate documents.

E. Conclusion

Appellant requests that this Court order the probation order corrected to reflect a breakdown of all of the assessments ordered.

CONCLUSION

Appellant requests that this Court grant review to consider the issues of the propriety of the factual basis inquiry and the omission of the statutory bases for the penalty assessments from the probation order.

Dated: Respectfully submitted,

Jean M. Marinovich
State Bar # 157848
Attorney at Law
Attorney for Appellant

CERTIFICATE OF COMPLIANCE
(Cal.Rules of Ct., rule 8.504(d)(1))

Case Name: David Edward Palmer No.: H036979

I, Jean M. Marinovich, certify pursuant to rule 8.504(d)(1) of the California Rules of Court that this brief was produced on a computer and contains 2,404 words, as calculated by the word count of the Word program. This brief therefore complies with the rule, which limits a brief produced on a computer to 8,400 words.

Dated: July 30, 2012

_____

Jean M. Marinovich
Attorney for Appellant

DECLARATION OF SERVICE

Case Name: *People v. David Edward Palmer* No.: H036979

I, the undersigned, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to the within action; my business address is P.O. Box 2079 Aptos, California, 95001-2079.

On July 31, 2012, I served the attached

APPELLANT'S PETITION FOR REVIEW

By placing a true copy thereof in an envelope addressed to the person(s) named below at the address(es) shown, and by sealing and depositing the envelope in the United States Mail at Aptos, California, with postage thereon fully prepaid.

Sixth District Appellate Program 100 N. Winchester Blvd. Suite 310 Santa Clara, CA 95050	Office of the State Attorney General 455 Golden Gate Ave. #11000 San Francisco, CA 94102
Court of Appeal Sixth Appellate District 333 W. Santa Clara Street Suite 1060 San Jose, CA 95113	California Supreme Court Office of the Clerk 350 McAllister Street San Francisco, CA 94102
David E. Palmer 512 Coralwood Road Modesto, CA 95357	Santa Clara County Superior Court 191 N. First Street San Jose, CA 95113

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 31, 2012, at Aptos, California.

_____ _____

Declarant Signature

EXHIBIT A

COPY

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID EDWARD PALMER,

Defendant and Appellant.

H036979

(Santa Clara County
Super. Ct. No. C1094540)

Defendant, David Edward Palmer, was convicted by negotiated no contest plea of possession of 3, 4-methylenedioxy methamphetamine (MDMA) (Health & Saf. Code, § 11378). Pursuant to the plea agreement, the trial court suspended imposition of sentence and placed defendant on probation for three years with various terms and conditions, including that he serve nine months in county jail and pay a $50 criminal lab analysis fee plus penalty assessments and a $150 drug program fee plus penalty assessments.

On appeal, defendant contends that the conviction must be reversed and the matter remanded so that the trial court can make a proper inquiry into the factual basis for the plea. He further contends that the probation order must include a breakdown of all the penalty assessments ordered. We will affirm.

BACKGROUND

Defendant was charged by felony complaint filed December 9, 2010, with possession of MDMA (Health & Saf. Code, § 11378; count 1) and possession for sale of marijuana (Health & Saf. Code, § 11359; count 2). Although the complaint states that "attached and incorporated by reference are official reports and documents of a law enforcement agency," the clerk of the superior court has filed a certificate stating that no attachments to the complaint can be found in the superior court file.

On March 18, 2011, defendant entered into a negotiated plea agreement whereby he pleaded no contest to count 1 on condition that count 2 be dismissed and that he serve nine months in county jail. On May 20, 2011, pursuant to the negotiated plea agreement, the court suspended imposition of sentence and placed defendant on probation for three years with various terms and conditions, including that he serve nine months in county jail and pay a $50 criminal lab analysis fee plus penalty assessments and a $150 drug program fee plus penalty assessments.

Defendant filed a timely notice of appeal. On October 20, 2011, this court granted defendant leave to file an amended notice of appeal and a request for certificate of probable cause. Defendant filed the amended notice of appeal and request for certificate of probable cause on October 28, 2011, and the trial court granted the request for a certificate of probable cause on November 2, 2011.

DISCUSSION

Factual Basis for the Plea

On March 18, 2011, after defendant entered his no contest plea to count 1, the prosecutor voir dired defendant regarding his plea. During the voir dire, the prosecutor asked defendant, "Have you discussed the elements of the crime and the defenses with your attorney?" Defendant responded, "Yeah." The prosecutor asked, "Are you satisfied with her advice?" Defendant responded, "Yes." The prosecutor asked, "Do you stipulate, [counsel], there's a factual basis for [the] plea as the People do?" Defendant's

counsel responded, "Yes, I do stipulate." The prosecutor asked, "And do you also waive your preliminary examination . . . ?" Defendant responded, "Yes." The prosecutor waived a preliminary examination as well, and both parties waived a probation report.

At the end of the voir dire, the court stated that it found "responses to the voir dire to the District Attorney had been intelligently given and to the extent that there were stipulated rights they were also knowingly [and] intelligently entered into by the defendant."

On appeal, defendant contends that the conviction must be reversed and the matter remanded to allow the trial court to make a proper inquiry into the factual basis for the plea. He argues that a bare stipulation by the parties that there is a factual basis for a plea is insufficient to satisfy the requirements of Penal Code section 1192.5[1] and *People v. Holmes* (2004) 32 Cal.4th 432, and, because a preliminary examination and a probation report were both waived, there is nothing in the record to support a factual basis in this case.

The People contend that the plea was proper. "Where the parties stipulate to a fact at trial, the fact finder must regard that fact as proved." "Where, as here, the record shows the defendant discussed the charge and possible defenses with counsel and was satisfied with her advice, then stipulated there was a factual basis for the plea, the stipulation at the very least is a waiver of a reference to a particular document in the record, and satisfies section 1192.5."

"In order to appeal after a conviction by plea of guilty or nolo contendre, a defendant must obtain a certificate of probable cause from the trial court. (§ 1237.5.) 'Issues cognizable on an appeal following a guilty plea are limited to issues based on "reasonable constitutional, jurisdictional, or other grounds going to the legality of the

---

[1] All further statutory references are to the Penal Code unless otherwise specified.

proceedings" resulting in the plea. (§ 1237.5; [citation].) The issuance of a certificate of probable cause pursuant to section 1237.5 does not operate to expand the grounds upon which an appeal may be taken as that section relates only to the "procedure in perfecting an appeal from a judgment based on a plea of guilty." [Citations.]' [Citation.]" (*People v. Voit* (2011) 200 Cal.App.4th 1353, 1364 (*Voit*).)

"In order to ensure that the entry of a plea is voluntary, California requires an inquiry by the trial court in some cases. 'When taking a conditional plea of guilty or nolo contendre (hereafter no contest) to an accusatory pleading charging a felony, a trial court is required by Penal Code section 1192.5 to "cause an inquiry to be made of the defendant to satisfy itself that the plea is freely and voluntarily made, and that there is a factual basis for the plea." ' (*People v. Holmes*[, *supra*,] 32 Cal.4th [at p.] 435 . . . , fn. omitted.) 'While there is no federal constitutional requirement for this factual basis inquiry, the statutory mandate of section 1192.5 helps ensure that the "constitutional standards of voluntariness and intelligence are met." [Citation.]' [Citation.] The inquiry also protects against an innocent person entering a guilty plea and creates a record against possible appellate or collateral attack. [Citation.]" (*Voit*, *supra*, 200 Cal.App.4th at p. 1365.)

" '[A] trial court possesses wide discretion in determining whether a sufficient factual basis exists for a guilty plea. The trial court's acceptance of the guilty plea, after pursuing an inquiry to satisfy itself that there is a factual basis for the plea, will be reversed only for abuse of discretion.' ([*People v.*] *Holmes*, *supra*, [32 Cal.4th] at p. 443.)" (*People v. Marlin* (2004) 124 Cal.App.4th 559, 572 (*Marlin*).)

"We do not believe that a plea of guilty or no contest forecloses a defendant from challenging [on appeal] the procedure that resulted in the plea. A trial court's alleged complete failure to conduct the required [factual basis] inquiry does not concern the defendant's guilt or innocence or the sufficiency of the evidence of guilt." (*Voit*, *supra*, 200 Cal.App.4th at p. 1369, italics omitted.) "[I]n light of the policies served by the

inquiry requirement, a failure to make *any* inquiry, 'while not a constitutional or jurisdictional requirement, is one of the "other" grounds going to the legality of the proceedings in the trial court.' (*Marlin*, *supra*, 124 Cal.App.4th 559, 571.)" (*Voit*, *supra*, at p. 1369.) "Whether there was an inquiry of the kind required by the statute is a procedural question." (*Ibid.*)

"On the other hand, when the trial court does make an inquiry on the record as to the factual basis for a plea, an appellate claim that the inquiry was not 'sufficient' or 'adequate' is often, as it was in *Marlin*, essentially a challenge not to the trial court's process but to its ultimate conclusion that there was a factual basis for the plea. In such a case, the defendant's position is concerned with the sufficiency of the evidence of his or her guilt. A defendant who belatedly disputes the existence of evidence of his or her guilt is making a substantive, not a procedural, claim." (*Voit*, *supra*, 200 Cal.App.4th at p. 1370.)

A defense counsel's stipulation that there is a factual basis for defendant's plea "must be regarded as an admission by defendant [when it is] made in defendant's presence with defendant's apparent assent. It is 'settled that a party is bound by a stipulation or admission in open court of his counsel, and, except where a constitutional proscription is involved, he cannot mislead the court by seeming to take a position on the issues and then disputing or repudiating the position on appeal.' [Citation.]" (*Voit*, *supra*, 200 Cal.App.4th at p. 1372, fn. 14.)

In this case, in response to the prosecutor's inquiry, defendant stated on the record in open court that he had reviewed the charges against him and his possible defenses with his counsel, and that he was satisfied with his counsel's advice. His counsel and the prosecutor then stipulated that there was a factual basis for defendant's no contest plea. The court found that defendant's answers to the prosecutor's inquiry and the stipulations were knowingly and intelligently entered into. On this record, defense counsel's stipulation that there was a factual basis for the plea "must be regarded as an admission

by defendant [as it was] made in [open court in] defendant's presence with defendant's apparent assent." (*Voit, supra*, 200 Cal.App.4th at p. 1372, fn. 14.) Therefore, defendant's contention that the factual basis inquiry was not sufficient is "essentially a challenge not to the trial court's process but to its ultimate conclusion that there was a factual basis for the plea." (*Voit, supra*, at p. 1370.) However, the trial court's acceptance of the guilty plea after an inquiry into the factual basis for the plea can only be reversed for an abuse of discretion. (*Marlin, supra*, 124 Cal.App.4th at p. 572.) Given defendant's and the prosecutor's stipulation to a factual basis, we see no reason to reverse the judgment and remand the matter to allow another inquiry into the factual basis for defendant's plea.

Penalty Assessments

The court ordered defendant to pay a $50 criminal lab analysis fee, plus penalty assessments, and a $150 drug program fee, plus penalty assessments, as a condition of his probation. The amended order of probation filed August 18, 2011, states that the penalty assessments for the $50 criminal lab analysis fee are $150, and the penalty assessments for the $150 drug program fee are $450. In his opening brief on appeal, defendant contends that the order of probation does not, but should, include the correct amount of the penalty assessments as well as a breakdown of the statutory basis for the penalty assessments. In his reply brief, defendant acknowledges that the probation order does include the correct amount of the penalty assessments but continues to contend that the order should also include a "specific breakdown" of the statutory basis for each of the ordered penalty assessments. Defendant requests that this court remand the matter to the trial court so that the order of probation can be amended to include "a detailed breakdown of the statutory bases for the assessments."

The People contend that, because the "penalty assessments are correctly identified statute by statute in the chart in [defendant's] [o]pening [b]rief," and the total amount of

the penalty assessments included in the order of probation is correct, no remand is warranted.

We acknowledge that, in order to facilitate review of the penalty assessments imposed in a case, as well as to assist in collection efforts, it is important for the trial court to recite the statutory bases for all penalty assessments imposed. (See *People v. Taylor* (2004) 118 Cal.App.4th 454, 456-460; *People v. High* (2004) 119 Cal.App.4th 1192, 1200.) However, in this era of budget cuts and limited judicial resources, given that defendant's counsel has correctly identified the "specific breakdown" of the statutory bases for the penalty assessments and has agreed that the amounts included in the order of probation are correct, we see no reason to remand the matter to the trial court for an amendment to the order of probation.

DISPOSITION

The judgment (order of probation) is affirmed.

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

ELIA, ACTING P.J.

GROVER, J.*

People v. Palmer
H036979

*Judge of the Monterey County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.