

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Appellee*,

v.

ERNESTO JAIMES MALDONADO, *Appellant*.

No. 1 CA-CR 16-0180
FILED 8-23-2016

Appeal from the Superior Court in Yuma County
No. S1400CR201500819
The Honorable Steven J. Rouff, Judge *Pro Tempore*

CONVICTION AFFIRMED; SENTENCE AFFIRMED AS MODIFIED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Joseph T. Maziarz
Counsel for Appellee

Yuma County Public Defender's Office, Yuma
By Edward F. McGee
Counsel for Appellant

STATE v. MALDONADO
Decision of the Court

MEMORANDUM DECISION

Chief Judge Michael J. Brown delivered the decision of the Court, in which Judge Maurice Portley and Judge Peter B. Swann joined.

B R O W N, Chief Judge:

¶1 Ernesto Jaimes Maldonado appeals his conviction and sentence for transportation of marijuana for sale, asserting he is entitled to 231 days of presentence incarceration credit instead of the 230 days awarded by the court. In response, the State concedes the error.

¶2 Failure to award full credit for time served in presentence incarceration is fundamental error. *See State v. Cofield*, 210 Ariz. 84, 86, ¶ 10 (App. 2005). All time actually spent in custody pursuant to an offense until the prisoner is sentenced to imprisonment for such offense shall be credited against the term of imprisonment. Arizona Revised Statutes sections 13-712(B), -903(F).

¶3 The record supports Maldonado's argument and thus we accept the State's concession of error. We therefore modify Maldonado's sentence to reflect a total of 231 days of presentence incarceration credit. We otherwise affirm Maldonado's conviction and sentence.



Amy M. Wood • Clerk of the court
FILED: AA