

Ex-Con Is Freed in Jail-Error Case

Sacramento

The California penal system which fought 22 months to get Oakland ironworker Frank Nubin back into prison yesterday gave him up hours after he returned.

The California Adult Authority, which claimed the 46-year-old Nubin owed the state 10 months because he was released from San Quentin prison prematurely because of a clerical error, granted Nubin a 10-month parole.

In a brief announcement, Authority Chairman Henry

Kerr said the parole was given because Nubin, who had a generally clean record while out of prison, had shown "improvement."

BATTLE

In fighting the legal battle to get Nubin back, however, the state contended that he was "potentially dangerous" and in need of rehabilitation. They based this claim on the fact that Nubin had been arrested on charges of assaulting his former common law wife — once while on parole, and again during the 22 months that he was free — even though in both cases the

charges were dismissed.

It was the first arrest on Christmas Eve in 1968 that led the authority to revoke the parole in January 1969 and order him back to prison.

The formal authority letter notifying Nubin of the revocation, however, contained a clerical error. Instead of giving the revocation date as Jan. 3, 1969—one day before his parole would have lapsed — the letter gave it as Jan. 31, 1969, a date when the authority would have had no authority to revoke it.

Nubin's attorney Salle Soladay of San Rafael took the matter to court, and in January 1970 on the strength of a favorable ruling, Nubin won his release and appeared free of authority rule.

RULING

But last week, Marin County Superior Court Judge E. Warren McGuire, the same jurist who ordered Nubin freed, reversed his ruling after hearing new arguments from the state.

Yesterday, however, the authority elected to grant him a 10-month parole.

Although the state agency's ruling was not unexpected owing to the widespread publicity the case had attracted, it must have surprised Nubin.

When he turned himself in here yesterday, accompanied by two state senators from the Oakland area, Nubin told reporters, "Deep down in my heart, I know they want me back."

Our Correspondent