

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

----

THE PEOPLE,

Plaintiff and Respondent,

v.

LEVI GARRETT WADMAN,

Defendant and Appellant.

C068999

(Super. Ct. No. CM034415)

Defendant Levi Garrett Wadman pleaded no contest to theft from an elder. (Pen. Code, § 368, subd. (d).)<sup>1</sup> The trial court sentenced defendant to four years in state prison and ordered him to pay \$209,734.45 in victim restitution.

On appeal, defendant contends that the prospective application of the Criminal Justice Realignment Act of 2011 (Realignment Act; Stats. 2011, ch. 15) violates his right to equal protection of the law. We affirm.

**DISCUSSION**

The facts of defendant’s crime are unnecessary to resolve his appeal.

\_\_\_\_\_

<sup>1</sup> All further statutory references are to the Penal Code unless otherwise designated.

Defendant was sentenced to state prison on July 28, 2011. The Realignment Act would apply to defendant but for the date of his sentencing. “The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.” (§ 1170, subd. (h)(6).)

A felon sentenced under the Realignment Act is committed to county jail instead of state prison (§ 1170, subd. (h)(1), (2)), may have a concluding portion of his or her sentence suspended in lieu of probation (§ 1170, subd. (h)(5)), and is not subject to parole (§ 3000 et seq.). This constitutes a reduction in punishment for the affected crimes.

Defendant argues that the prospective application of the Realignment Act violates his equal protection rights. A criminal defendant does not have a fundamental liberty interest in the retroactive application of a statute reducing the punishment for a crime. (*Baker v. Superior Court* (1984) 35 Cal.3d 663, 668-669.) A defendant’s right to equal protection of the law does not prevent the Legislature from determining that a change in the law reducing the punishment for a crime shall be applied on or after a specified date. (*People v. Floyd* (2003) 31 Cal.4th 179, 188; *In re Kapperman* (1974) 11 Cal.3d 542, 546.)

We held that prospective application of the Realignment Act did not violate a defendant’s equal protection rights in *People v. Lynch* (2012) 209 Cal.App.4th 353, 362. We reject defendant’s contention for the reasons stated herein and in our opinion in *Lynch*.

**DISPOSITION**

The judgment is affirmed.

\_\_\_\_\_ RAYE \_\_\_\_\_, P. J.

We concur:

\_\_\_\_\_ MURRAY \_\_\_\_\_, J.

\_\_\_\_\_ HOCH \_\_\_\_\_, J.