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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Tehama)

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THE PEOPLE,

Plaintiff and Respondent,

v.

JACOB FRANKLIN HILL SNYDER,

Defendant and Appellant.

C069070

(Super. Ct. No. SCR31588)

Defendant Jacob Franklin Hill Snyder pled no contest to felony child endangerment (Pen. Code, § 273a, subd. (a))<sup>1</sup> and driving with a blood-alcohol content of .08 percent or higher (Health & Saf. Code, § 23152, subd. (b)), and admitted a strike allegation (§ 1170.12, subds. (a)-(d)). The trial court imposed a stipulated four-year prison term and awarded 228 days of presentence credit (152 actual and 76 conduct).

On appeal, defendant contends the trial court's failure to award additional conduct credits pursuant to the Criminal

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<sup>1</sup> Undesignated statutory references are to the Penal Code.

Justice Realignment Act of 2011 (Realignment Act) (Stats. 2011, ch. 15, § 482) deprived him of equal protection under the law. We correct an error in the abstract of judgment and affirm.

### **DISCUSSION<sup>2</sup>**

Defendant committed the crimes for which he was convicted on February 28, 2011. He was sentenced on August 16, 2011.

The trial court calculated defendant's conduct credits under the September 28, 2010 revision of the presentence credit law. Under that version, a defendant with a current or prior serious or violent felony conviction was entitled to two days of conduct credit for every four days of presentence custody. (Former §§ 2933, 4019 (Stats. 2010, ch. 426); see *In re Marquez* (2003) 30 Cal.4th 14, 25-26 (*Marquez*) [no rounding up when calculating credits].)

The Realignment Act amended the law, entitling defendants to two days of conduct credit for every two days of presentence custody. (§ 4019, subds. (b), (c), (f); see *Marquez, supra*, 30 Cal.4th at pp. 25-26.) The award of credits is not reduced by a defendant's prior conviction for a serious or violent felony. This provision applies prospectively, to defendants serving presentence incarceration for crimes committed on or after October 1, 2011. (§ 4019, subd. (h).)

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<sup>2</sup> The facts of defendant's crime are unnecessary to resolve this appeal.

Defendant argues that the prospective application of the conduct credit provisions of the Realignment Act violates his right to equal protection under the law.

In *People v. Brown* (2012) 54 Cal.4th 314 (*Brown*), our Supreme Court addressed whether the prospective application of the January 25, 2010 amendment to section 4019 (Stats. 2009, 3d Ex. Sess, ch. 28, § 50), which increased conduct credits, violated a defendant's equal protection rights (*id.* at p. 318). Our high court held that prospective application of a law increasing the award of conduct credits did not violate a defendant's equal protection rights. (*Id.* at p. 330.)

Our high court recently rejected an equal protection claim regarding conduct credits awarded under the Realignment Act in *People v. Lara* (2012) 54 Cal.4th 896, 906, fn. 9.) Reiterating its reasoning in *Brown*, the court stated, "[t]he obvious purpose" of a law increasing credits "is to affect the behavior of inmates by providing them with incentives to engage in productive work and maintain good conduct while they are in prison." [Citation.] "[T]his incentive purpose has no meaning if an inmate is unaware of it. The very concept demands prospective application." (*Brown*, at p. 329, quoting *In re Strick* (1983) 148 Cal.App.3d 906, 913.) Accordingly, prisoners who serve their pretrial detention before such a law's effective date, and those who serve their detention thereafter, are not similarly situated with respect to the law's purpose. (*Brown*, at pp. 328-329.)" (*Lara, supra*, 54 Cal.4th at p. 306, fn. 9.)

*Brown* and *Lara* apply here. Consequently, we reject defendant's claim.

We note an error in the abstract of judgment filed November 16, 2011. Under section 3., the strike is listed as Penal Code section "1170.129(a)-(d)." There is no such code section. The strike allegation defendant admitted was pursuant to Penal Code section "1170.12(a)-(d)."

**DISPOSITION**

The judgment is affirmed. The trial court is directed to prepare a corrected abstract of judgment that indicates, in section 3., that defendant's strike was imposed pursuant to Penal Code section "1170.12(a)-(d)," rather than "1170.129(a)-(d)."

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MURRAY, J.

We concur:

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RAYE, P. J.

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HOCH, J.