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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

TROY LEE SMITH,

Defendant and Appellant.

C069295

(Super. Ct. Nos. 09F04899,
06F00601)

Defendant Troy Lee Smith pleaded no contest to acquiring or retaining possession of the personal identifying information of 10 or more persons with the intent to defraud (Pen. Code, § 530.5, subd. (c)(3); undesignated statutory references are to the Penal Code) and admitted a prior prison term enhancement (§ 667.5, subd. (b)). The trial court sentenced defendant to four years in state prison.

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.

Defendant was sentenced to state prison on July 7, 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 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.