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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

LESLEY WILLIAM FRANKLIN, JR.,

Defendant and Appellant.

C069957

(Super. Ct. No. CM035001)

Defendant Lesley William Franklin, Jr., pled no contest to failure to provide true sex offender registration information and admitted that he had served two prior prison terms. In exchange, the prosecutor agreed not to file an allegation that defendant had a prior serious felony conviction.

Defendant was sentenced to state prison for five years, awarded 98 days' custody credit and 48 days' conduct credit, and ordered to pay, inter alia, a \$500 sex crime fine plus penalty

assessments. He was ordered to register pursuant to Penal Code¹ section 290.

Defendant contends, and the People concede, the sex crime fine plus penalty assessments is unauthorized and must be stricken. Defendant also contends he is entitled to additional presentence conduct credit. He is not.

FACTS

The facts of defendant's offense are not at issue and are not set forth in this opinion.

DISCUSSION

I

Sex Crime Fine

Defendant contends, and the People concede, the sex crime fine and related penalty assessments (§ 290.3) is unauthorized and must be stricken. We accept the concession.

By statute, the sex crime fine applies to crimes *for which registration is required*; it does not apply to crimes arising from the *act* of registration or the *failure* to register.

Section 290.3, subdivision (a), provides that the fine shall be imposed where offenders commit any of the offenses listed in section 290, subdivision (c). Defendant's current crime is violation of section 290.015, failure to provide true registration information. That offense is not listed in section 290, subdivision (c). Thus, the fine is unauthorized

¹ Undesignated statutory references are to the Penal Code.

and may be stricken at any time regardless of whether an objection had been raised in the trial court. (*People v. Welch* (1993) 5 Cal.4th 228, 235.) We shall modify the judgment by striking the sex crime fine and related penalty assessments.

II

Conduct Credit

Defendant contends prospective application of section 4019, the conduct credit provision of the Realignment Act, violates equal protection principles. After briefing in this case was completed, the California Supreme Court decided *People v. Lara* (2012) 54 Cal.4th 896, 906, footnote 9, which rejected defendant's contention. Thus, defendant is not entitled to additional presentence conduct credit.

DISPOSITION

The judgment is modified by striking the \$500 sex crime fine and related penalty assessments. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections and Rehabilitation.

ROBIE, Acting P. J.

We concur:

MAURO, J.

HOCH, J.