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COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTINE IONE OSBOURN,

Defendant and Appellant.

C070052

(Super. Ct. No. CRF1188)

Defendant Christine Ione Osbourn pled no contest to criminal threats. (Pen. Code, § 422.)¹ The trial court suspended imposition of sentence and placed her on three years' formal probation. Defendant subsequently admitted violating her probation. The trial court sentenced her to two years in state

¹ Undesignated statutory references are to the Penal Code.

prison and awarded 90 days of presentence credit (60 actual and 30 conduct).

On appeal, defendant contends the trial court's failure to award additional conduct credits pursuant to the Criminal Justice Realignment Act of 2011 (Realignment Act) (Stats. 2011, ch. 15, § 482) deprived her of equal protection under the law. We affirm.

DISCUSSION²

Defendant committed the crime for which she was convicted on February 4, 2011. She was sentenced on November 7, 2011.

The trial court calculated defendant's conduct credits under the September 28, 2010 revision of the presentence credit law, which provided that a defendant with a current serious felony conviction was entitled to two days of conduct credit for every four days of presentence custody. (Former §§ 2933, 4019 (Stats. 2010, ch. 426.))

The Realignment Act amended the law, entitling defendants to two days of conduct credits for every two days of presentence custody. (§ 4019, subs. (b), (c), (f).) The award of credits is not reduced by a defendant's current or prior conviction for a serious felony. This provision applies prospectively, to defendants serving presentence incarceration for crimes committed on or after October 1, 2011. (§ 4019, subd. (h).)

² The facts of defendant's crime are unnecessary to resolve this appeal.

Defendant argues that prospective application of the conduct credit provisions of the Realignment Act violates her right to equal protection under the law. (AOB 3)

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. (*Brown, supra*, 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. 906, fn. 9.)

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

DISPOSITION

The judgment is affirmed.

_____ MURRAY _____, J.

We concur:

_____ RAYE _____, P. J.

_____ HOCH _____, J.