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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

DAMARCO MARQUE RICHIE,

Defendant and Appellant.

C070352

(Super. Ct. No.
10F05542)

Defendant Damarco Marque Richie pled no contest to two counts of failing to register as a sex offender (Pen. Code, § 290.018, subd. (b))¹ and admitted a strike and three prior prison term allegations (§§ 667, subds. (b)-(i), 1170.12, 667.5, subd. (b)). The trial court imposed a stipulated sentence of 32 months in state prison and awarded 415 days of presentence credit (277 actual and 138 conduct).

On appeal, defendant contends the trial court improperly imposed booking and classification fees (Gov. Code, § 29550) and

¹ Subsequent undesignated statutory references are to the Penal Code.

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

We dispense with the facts of defendant's crimes, which are unnecessary to resolve this appeal.

I

Defendant contends the trial court erred by imposing booking and classification fees (Gov. Code, § 29550) without any evidence of the actual administrative costs of booking and classification.

The Attorney General correctly points out that the fees were not imposed. The probation report recommended a \$287.78 booking fee and a \$59.23 classification fee. At sentencing, the trial court initially imposed those fees as stated in the probation report. However, after defense counsel informed the court that they were not mandatory fees, the trial court struck the fees. The fees do not appear in the minute order or the abstract.

Defendant admits his oversight in the reply brief, but asks us to order an amendment to the minute order stating that the classification and booking fees were waived.

We decline defendant's invitation. The fees were not included in the court's judgment, were not mentioned in the minute order, and are not contained in the abstract. This is more than sufficient to show that the fees were not imposed.

II

Defendant committed his crimes between July 14 and August 19, 2010. He was sentenced on May 26, 2011.

The trial court sentenced defendant under the January 25, 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 § 4019.) Defendant admitted to a prior conviction for attempted robbery, a serious felony. (§§ 1192.7, subd. (c)(19), (39).)

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 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).)

Defendant argues that the prospective application of the conduct credit provisions of the Realignment Act violates his right to equal protection under the law. This claim was rejected by the California Supreme Court in a case after the conclusion of briefing. (*People v. Lara* (2012) 54 Cal.4th 896, 906, fn. 9.) Applying *Lara*, we reject defendant's claim.

DISPOSITION

The judgment is affirmed.

BLEASE, J.

We concur:

RAYE, P. J.

HULL, J.