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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

MICHELLE SOPHIA WALKER,

Defendant and Appellant.

C070467

(Super. Ct. No. 11F00068)

In September 2011, defendant Michelle Sophia Walker pled no contest to two counts of first degree burglary (Pen. Code, §§ 459, 460, subd. (a))¹ and admitted that she knew each victim was age 65 years or older (§ 667.9, subd. (a)). In exchange, 19 related counts were dismissed with a *Harvey* waiver.² Defendant was sentenced to prison for

¹ Undesignated statutory references are to the Penal Code.

² *People v. Harvey* (1979) 25 Cal.3d 754.

four years eight months and was awarded 361 days' custody credit and 180 days' conduct credit.

On appeal, defendant contends principles of equal protection entitle her to additional presentence conduct credit. Specifically, she claims the October 2011 amendment to section 4019 must be applied retroactively so that her 361 days' custody credit entitle her to 361 days' conduct credit. We affirm.

DISCUSSION³

Defendant contends prospective application of section 4019, the conduct credit provision of the Criminal Justice Realignment Act of 2011 (Stats. 2011, ch. 15, § 482), violates equal protection principles. After defendant filed her opening brief, our Supreme Court decided *People v. Lara* (2012) 54 Cal.4th 896 (*Lara*), which rejected defendant's contention. (*Lara, supra*, at p. 906, fn. 9.)

In *Lara*, our Supreme Court explained its rejection of the defendant's equal protection argument as follows: "As we . . . explained [in *People v. Brown* (2012) 54 Cal.4th 314, 328-330], ' "[t]he obvious purpose " ' of a law increasing conduct 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.)

³ Because the facts of defendant's offenses are not at issue, they need not be set forth in this opinion.

Under the equal protection analysis of *Lara*, defendant is not entitled to additional presentence conduct credit.

DISPOSITION

The judgment is affirmed.

MURRAY, J.

We concur:

RAYE, P. J.

MAURO, J.