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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

VERONICA GERMINA VEGA,

Petitioner,

v.

THE SUPERIOR COURT OF ORANGE
COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

G046742

(Super. Ct. No. 10WF2655)

O P I N I O N

Original proceedings; petition for a writ of mandate to challenge an order of the Superior Court of Orange County, Vickie L. Hix, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Petition denied.

Frank Ospino, Public Defender, Mark Brown, Assistant Public Defender, Matthew Missakian and Miles D. Jessup, Deputy Public Defenders for Petitioner.

No appearance for Respondent.

Tony Rackauckas, District Attorney, and Brian Fitzpatrick, Deputy District Attorney, for Real Party in Interest.

Veronica Germina Vega filed a petition for writ of mandate arguing the trial court erred in denying her additional conduct credits under the amendment to Penal Code section 4019¹ that became operative October 1, 2011, pursuant to criminal justice realignment. Vega relies primarily on the equal protection clause, but she does, briefly, claim section 4019's plain language compels the same result. In his informal response, the Orange County District Attorney concedes the error based on equal protection principles.

In light of the California Supreme Court's decision in *People v. Brown* (2012) 54 Cal.4th 314 (*Brown*), we ordered the Orange County District Attorney to file a return and Vega to reply limited to discussing the effect, if any, of *Brown*. In his return, the District Attorney now asserts Vega is not entitled to additional conduct credits based on *Brown* and its progeny. In her reply, Vega maintains she is entitled to additional conduct credits pursuant to *Brown* and equal protection principles. We agree with the District Attorney and deny the petition.

FACTS

In November 2010, Vega pled guilty to committing felony burglary (§§ 459, 460(b)) on October 22, 2010. The court placed Vega on three years formal probation. On March 5, 2015, Vega admitted to violating probation. The court reinstated probation on the condition Vega serve 90 days in jail. The court awarded her six days of actual credit and two days of conduct credit for a total of eight days. Four days later, Vega filed a motion requesting additional conduct credits, an additional four days, pursuant to the amendment to section 4019, which became operative October 1, 2011, arguing to not do so would violate equal protection principles. At a hearing, the court denied Vega's motion and the motions of three other defendants.

¹

All further statutory references are to the Penal Code.

DISCUSSION

In her petition, Vega argues she is entitled to an additional four days of conduct credits for a total of 12 days of credit (six actual and six conduct), for time she served *after* October 1, 2011. We disagree as she committed her offense before October 1, 2011.

As we explain in greater detail in *People v. Rajanayagam* (2012) 211 Cal.App.4th 42 (*Rajanayagam*), Vega is not entitled to additional conduct credits. In *Rajanayagam*, we explained principles of statutory construction compel the conclusion only those defendants who commit an offense on or after October 1, 2011, are eligible for enhanced conduct credits. (*Id.* at pp. 48-52.) Additionally, although we concluded the two groups are similarly situated, we found there was a rational basis for treating the two groups differently. (*Id.* at pp. 53-56.) Vega offers us no compelling or different reason to depart from our holding in *Rajanayagam*.

DISPOSITION

The petition is denied.

O'LEARY, P. J.

WE CONCUR:

MOORE, J.

IKOLA, J.