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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

RONALD ERVIN WARREN,

Defendant and Appellant.

B239054

(Los Angeles County
Super. Ct. No. KA093574)

APPEAL from an order of the Superior Court of Los Angeles County,
Mike Camacho, Judge. Affirmed.

Richard B. Lennon, under appointment by the Court of Appeal, for
Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant
Attorney General, Lance E. Winters, Senior Assistant Attorney General, Chung L. Mar
and Kim Aarons, Deputy Attorneys General, for Plaintiff and Respondent.

Ronald Ervin Warren appeals from a post-sentence order denying his motion for additional conduct credits based on the newly amended Penal Code section 4019.¹ We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Warren pleaded guilty to having been in possession of a controlled substance on March 8, 2011 (Health & Saf. Code, § 11377, subd. (a)) and admitted having suffered six prior serious or violent felony convictions within the meaning of the “Three Strikes” law (§§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d)) and having served five separate prison terms for felonies (§ 667.5, subd. (b)).

On August 15, 2011, the trial court granted Warren’s motion to dismiss all but one of the prior strike convictions (*People v. Superior Court (Romero)* (1996) 13 Cal.4th 497, 531) and all of the prior prison term enhancements. The court then sentenced Warren to an aggregate state prison term of six years (the three-year upper term doubled under the Three Strikes law). The court calculated Warren’s presentence custody credits according to a now superseded version of section 4019. That section, effective September 28, 2010, allowed prisoners in local custody to be deemed to have served six days for every four days of actual confinement. (Former § 4019, subds. (b), (c), (f) & (g); Stats. 2010, ch. 426, § 2, eff. Sept. 28, 2010.) Accordingly, Warren was awarded 216 days of presentence custody credits (144 actual days and 72 days of conduct credits). Warren was ordered to pay a \$40 court security fee, a \$30 criminal conviction assessment, a \$50 lab fee, and a \$200 restitution fine. The court imposed and suspended a parole revocation fine. (§ 1202.45.)

On January 27, 2012, Warren filed a motion to modify his presentence custody credits based on an amendment to section 4019 that was expressly operative October 1, 2011 and allowed four days to be deemed served for every two days of actual confinement. (§ 4019, subd. (f); Stats. 2011, ch. 15 § 482, Stats. 2011-2012, ch. 12, § 35.) The trial court denied the motion.

¹ All further statutory references are to the Penal Code.

DISCUSSION

Warren asserts he is entitled to an additional 72 days of conduct credits based on the newly amended section 4019, even though he was sentenced prior to October 1, 2011. Specifically, Warren contends: (1) the amendment to section 4019 applies retroactively, and (2) the denial of the additional credits violates the equal protection clause.

People v. Brown (2012) 54 Cal.4th 314 (*Brown*) disposes of Warren's claims. In *Brown*, the California Supreme Court determined that an earlier version of section 4019 applied prospectively only, "meaning that qualified prisoners in local custody first became eligible to earn credit for good behavior at the increased rate beginning on the statute's operative date." (*Id.* at p. 318.) *Brown* reasoned that statutory construction did not require retroactive application: "The statute contains no express declaration that increased conduct credits are to be awarded retroactively, and no clear and unavoidable implication to that effect arises from the relevant extrinsic sources, i.e., the legislative history." (*Id.* at p. 320.)

Brown also decided that prospective application of the earlier version of section 4019 did not violate the equal protection clauses of the federal and state Constitutions. (U.S. Const., 14th Amend.; Cal. Const., art. I, § 7, subd. (a).) "[T]he important correctional purposes of a statute authorizing incentives for good behavior [citation] are not served by rewarding prisoners who served time before the incentives took effect and thus could not have modified their behavior in response. That prisoners who served time before and after former section 4019 took effect are not similarly situated necessarily follows." (*People v. Brown, supra*, 54 Cal.4th at pp. 328-329.)

We see no reason the rationale of *Brown* should not apply with equal force to the newly amended section 4019. (See *People v. Lara* (2012) 54 Cal.4th 896, 906, fn. 9.) Warren's crime was committed on March 8, 2011, and he was sentenced on August 15, 2011, well before the amendment's effective date of October 1, 2011. Accordingly, we reject Warren's claim he is entitled to additional presentence custody credits by reason of retroactive application of the latest amendment to section 4019.

DISPOSITION

The order is affirmed.

WOODS, Acting P. J.

We concur:

ZELON, J.

JACKSON, J.