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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

HATEEM ABDUL SHAREEF,

Defendant and Appellant.

B243598

(Los Angeles County
Super. Ct. No. SA015618)

APPEAL from an order of the Superior Court of Los Angeles County, Antonio Barreto, Jr., Judge. Affirmed.

California Appellate Project, Jonathan B. Steiner and Richard B. Lennon, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Hateem Abdul Shareef appeals from the trial court's post-judgment order denying his request for additional sentencing credit. We affirm the trial court's order.

FACTUAL AND PROCEDURAL BACKGROUND

On April 21, 1995, defendant and appellant Hateem Abdul Shareef was sentenced for his convictions of 19 counts of robbery (Pen. Code, § 211),¹ during a number of which he used a firearm (§ 12022.5, subd. (a)), three counts of attempted robbery (§§ 664, 211), during which he used a firearm (§ 12022.5, subd. (a)), and one count of assault with a deadly weapon or force likely to produce great bodily injury (§ 245, subd. (a)(1)).² After sentencing him, the trial court awarded him presentence custody credit for 576 days actually served and 288 days of good time/work time.

In a petition filed in the superior court on June 18, 2012, Shareef indicated that he had spent 576 days in custody prior to his sentencing. He asserted that, pursuant to section 4019, as amended April 4, 2011 and operative as of October 1, 2011, he is entitled to an additional 288 days of good time/work time, or a total of 1,152 days. He requested that the trial court make this correction, then transmit a conforming minute order and abstract of judgment to the parties and the California Men's Colony in San Luis Obispo.

On June 18, 2012, the trial court indicated that it had read and considered Shareef's petition for an "order granting pre-sentence custody and conduct credits." The

¹ All further statutory references are to the Penal Code unless otherwise indicated.

² The record on appeal fails to provide any of the facts underlying Shareef's convictions.

court denied the petition, finding that Shareef had been “properly awarded the time credits available at the time [of his sentencing] and [was] not entitled to any individual t[i]me credits based upon legislation that became effective many years later, nor by application of ‘equal protection’ of the law.”

On August 14, 2012, Shareef filed a timely notice of appeal from the trial court’s order.

CONTENTIONS

After examination of the record, counsel filed an opening brief which raised no issues and requested this court to conduct an independent review of the record.

By notice filed October 26, 2012, the clerk of this court advised Shareef to submit within 30 days any contentions, grounds of appeal or arguments he wished this court to consider. No response has been received to date.

In any event, the April 4, 2011 amendment to section 4019, subdivision (f), which was enacted after Shareef was sentenced, reads that “a term of four days will be deemed to have been served for every two days spent in actual custody.” However, subdivision (h) of the amended section 4019 provides that “[a]ny days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law.” The California Supreme Court has expressly found that the amendments to section 4019 operate “prospectively” (*People v. Brown* (2012) 54 Cal.4th 314, 322-323) and that such an interpretation of the statute does not violate principles of equal protection (*Brown*, at p. 330; see also *People v. Verba* (2012) 210 Cal.App.4th 991, 997).

REVIEW ON APPEAL

We have examined the entire record and are satisfied counsel has complied fully with counsel's responsibilities. (*Smith v. Robbins* (2000) 528 U.S. 259, 278-284; *People v. Wende* (1979) 25 Cal.3d 436, 443.)

DISPOSITION

The trial court's order denying petitioner's request for additional pre-sentence custody credit is affirmed.

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CROSKEY, J.

We concur:

KLEIN, P. J.

KITCHING, J.