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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE, Plaintiff and Respondent, v. JEFFREY STEVENSON, Defendant and Appellant.	B237215 (Los Angeles County Super. Ct. No. BA386366)

APPEAL from a judgment of the Superior Court of Los Angeles County, Ronald H. Rose, Judge. Affirmed.

David R. Greifinger, 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, Assistant Attorney General, Steven D. Matthews and David F. Glassman, Deputy Attorneys General, for Plaintiff and Respondent.

Defendant Jeffrey Stevenson appeals from the judgment entered following his conviction by jury of selling, furnishing, or giving away cocaine.[1] (Health & Saf. Code, § 11352, subd. (a).) He contends the evidence is insufficient to sustain the conviction and he is entitled to additional presentence conduct credits. We find both contentions to be without merit and affirm.

STATEMENT OF FACTS

I. The Prosecution Case

On February 3, 2011, at approximately 3:45 p.m., Los Angeles Police Officers Bryan Goland and Mike Hofmeyer were working as plain clothes narcotics officers at South Park, a known location for drug activity. As they sat in their vehicle, monitoring the park for the sales of narcotics, the officers observed a White male enter the park at a rapid pace and approach a bench at a picnic table, where defendant was sitting. The officers had a clear, unobstructed view of the table, which was 30 to 35 yards away from their car. The male reached into his pocket and removed an unknown denomination of paper currency. He handed the currency to defendant, who took it and put it in his pants pocket. From his waistband, defendant retrieved a small, brightly colored object and placed it on the table. The male picked up the object, appeared to examine it, dropped the object into his backpack, and walked away.

The officers followed the male in their vehicle. They did not see anyone interact with the male, who entered a bathroom. Goland and Hofmeyer went into the bathroom and observed that no one other than the male was inside. Goland did not see anyone leave the bathroom. The male was inside of a stall and the door was ajar. The officers

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[1] After a separate court trial, defendant was found to have suffered two prior serious felony convictions within the meaning of the "Three Strikes" law (Pen. Code, §§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d)) and eight prior convictions within the meaning of Penal Code section 667.5, subdivision (b). After the People informed the court that it would not be seeking a third strike sentence, defendant was sentenced to 11 years in state prison.

identified themselves and the male dropped the backpack. After retrieving the backpack, Goland looked inside and found a pink toy balloon, containing an off-white solid resembling cocaine base.[2] The item was in the same part of the backpack that Goland had seen the male place the object he had received from defendant. The male was arrested.

As the officers transported the male through the park, they noticed that defendant was sitting at the same bench. Goland stopped the vehicle and Hofmeyer got out. Defendant looked at Hofmeyer, got on a bicycle, and rode away. Hofmeyer returned to the car and Goland drove after defendant. Defendant got off his bicycle and sat on a bench next to another male. Defendant was taken into custody and searched. Goland found money totaling $456 in three different locations on defendant's person, his sock and each of his pants pockets. Goland believed this was significant because narcotics dealers often kept their money in different areas, separating their personal funds from drug proceeds. No drugs were found on defendant.

II. The Defense Case

William Jackson saw defendant frequently in the park and they occasionally engaged in casual conversation. On the day defendant was arrested, Jackson, defendant, and a male Jackson knows as Slim were sitting on a bench. A White male approached Slim, who is African-American, and they spoke briefly. The male gave Slim money and Slim placed it in his pocket. Jackson did not see Slim give anything to the male, who walked away.

A short time later, Jackson saw a gray Nissan approach. Jackson had seen the car around the park before and knew it was an undercover police vehicle. The occupants of the Nissan told defendant to put his hands on the table and spread his legs and they "took [defendant] through the drill." Defendant was handcuffed and placed in the Nissan.

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[2] The parties stipulated that the off-white solid was .15 grams of cocaine in the base form.

After telling the prosecutor he could not recall if he had been previously convicted of robbery and burglary, Jackson, in response to the court's question, acknowledged that he had been convicted of both crimes. He also admitted he had been convicted of petty theft with a prior.

DISCUSSION

I. Sufficiency of the Evidence

Defendant contends the evidence is insufficient to sustain his conviction. He notes that no fingerprints were recovered from the balloon in which the cocaine was discovered and no narcotics were found on his person. He argues the prosecution's case was based on nothing more than speculation and unsupported opinion testimony. Defendant misapprehends the standard of review.

In assessing a challenge to the sufficiency of the evidence, we review the entire record in the light most favorable to the judgment to determine whether there is substantial evidence from which a trier of fact could find the defendant guilty beyond a reasonable doubt. The standard of review is the same in cases in which the prosecution relies mainly on circumstantial evidence. (*People v. Cravens* (2012) 53 Cal.4th 500, 507.) We "must accept logical inferences that the jury might have drawn from the circumstantial evidence." (*People v. Maury* (2003) 30 Cal.4th 342, 396.) In a case where the circumstantial evidence is susceptible of two interpretations, when the jury chooses that interpretation pointing to the defendant's guilt, we determine only whether the evidence reasonably justifies the jury's verdict, even if we conclude the circumstantial evidence could also support a contrary finding. (*People v. Cravens*, *supra*, 53 Cal.4th at p. 508.)

Defendant chooses to focus on the circumstantial evidence that is in his favor. In doing so, he ignores the following evidence that supports his conviction: (1) he was in a park known for narcotics sales; (2) he was approached by a male who appeared to be a stranger, as the two did not exchange greetings and the male almost immediately handed

defendant money; (3) in exchange, defendant produced a small, brightly colored object; (4) the male examined the item and placed it in his backpack; (5) the male was observed walking to a bathroom and he had no contact with any other person; (6) the male was alone in the bathroom when he was detained; (7) no one was seen leaving the bathroom; (8) in the male's backpack, the officers found a pink balloon containing rock cocaine; (9) no other similar items were found in the backpack; and (10) defendant had $456 located in three different areas on his person, which is consistent with the practice of narcotics dealers.

Recognizing that reversal for insufficiency of the evidence is "unwarranted unless it appears 'that upon no hypothesis whatever is there sufficient substantial evidence to support [the jury verdict]'" (*People v. Bolin* (1998) 18 Cal.4th 297, 331, quoting *People v. Redmond* (1969) 71 Cal.2d 745, 755), we conclude defendant's conviction must stand.

II. The Award of Conduct Credits

At the time of sentencing, defendant was given credit for 273 days actually served and 136 days of conduct credits pursuant to former Penal Code section 4019 (section 4019). The current version of section 4019 provides that for every two days spent in custody, a term of four days will be deemed to have been served. (§ 4019, subd. (f), as amended by Stats. 2011, ch. 15, § 482.) The enhanced credits apply to time served for a crime committed on or after October 1, 2011.

As set forth above, defendant committed the crime for which he is serving time on February 3, 2011. Nonetheless, relying on language in section 4019, subdivision (h), he contends he is entitled to one-for-one credits for the time he served from October 1, 2011 to the day he was sentenced on November 2, 2011. The second sentence of subdivision (h) states: "Any days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law." (§ 4019, subd. (h).) Thus, defendant argues, it stands to reason that for time served after October 1, 2011, credits must be calculated according to current law.

The court in *People v. Rajanayagam* (2012) 211 Cal.App.4th 42 was confronted with the same argument. The panel wrote: "[Section 4019,] [s]ubdivision (h)'s first sentence states: 'The changes to this section enacted by the act that added this subdivision shall apply *prospectively* and shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp *for a crime committed on or after October 1, 2011*.' (Italics added.) After declaring itself to operate 'prospectively,' the first sentence explicitly states the conduct credit amendment applies only to defendants whose crimes were committed 'on or after October 1, 2011.' (Subd. (h).) By the first sentence's plain language, section 4019 would not apply to Rajanayagam because he committed his crime *prior* to October 1, 2011. Thus, the first sentence leads unmistakably to the conclusion Rajanayagam is not entitled to conduct credit at the enhanced rate. Subdivision (h)'s second sentence, however, confuses matters. But the application of well-settled principles of statutory construction confirms our conclusion Rajanayagam is not entitled to enhanced conduct credits for time served on or after October 1, 2011, because he committed his crime before the effective date.

"Subdivision (h)'s second sentence provides: 'Any days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law.' ([§ 4019,] [s]ubd. (h).) Arguably the statement '[a]ny days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law' implies any days earned by a defendant *after* October 1, 2011, shall be calculated at the rate required by the current law, *regardless of when the offense was committed.* But to read the second sentence in this manner renders meaningless the first sentence. This we cannot do." (*People v. Rajanayagam, supra,* 211 Cal.App.4th at p. 51.)

After construing the statute as a whole and interpreting it so that none of its provisions was rendered meaningless or superfluous, the court concluded: "To imply the enhanced conduct credit provision applies to defendants who committed their crimes before the effective date but served time in local custody after the effective date reads too much into the statute and ignores the Legislature's clear intent in subdivision (h)'s first sentence." (*People v. Rajanayagam, supra,* 211 Cal.App.4th at p. 52, fn. omitted.)

We agree with the analysis of the *Rajanayagam* court. The statute states unambiguously that the enhanced credits apply only to the sentences of inmates who committed their crimes after October 1, 2011. Notwithstanding defendant's claim that construing the statute in that manner renders the second sentence superfluous, we conclude, as did the *Rajanayagam* court, that the language merely provides that conduct credits for crimes committed prior to October 1, 2011, are to be calculated in accordance with the prior law.

DISPOSITION

The judgment is affirmed.

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SUZUKAWA, J.

We concur:

EPSTEIN, P. J.

WILLHITE, J.