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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

BRUCE DOUGLAS KOHLER,

Defendant and Appellant.

2d Crim. No. B278140
(Super. Ct. No. 2015033752)
(Ventura County)

Bruce Douglas Kohler appeals an order imposing penalty assessments on a \$50 lab fee (Health & Saf. Code, § 11372.5)¹ and a \$150 drug program fee (§ 11372.7) after he was convicted by plea of manufacturing concentrated cannabis (§ 11379.6, subd. (a)) and sentenced to 18 months county jail and 18 months mandatory supervision, for a total fixed term of three years. (Pen. Code, § 1170, subd. (h)(5)(B).) The trial court denied a post-

¹ All statutory references are to the Health & Safety Code unless otherwise stated.

sentence motion to vacate the penalty assessments, ruling that the assessments were mandatory. We affirm.

Appellant contends that the penalty assessments must be stricken because lab fees and drug program fees are not punitive and not subject to penalty assessments. Penalty assessments apply to any “fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses.” (See, e.g., Pen. Code, § 1464, subd. (a)(1); Gov. Code, § 76000, subd. (a)(1); Cal. Criminal Law Procedure & Practice (Cont.Ed.Bar 2018) § 36.9, p. 1036.)

In *People v. Ruiz* (2018) 4 Cal.5th 1100, our Supreme Court recently held that a lab fee imposed pursuant to section 11372.5 constitutes “punishment.” (*Id.* at p. 1122.) “Because . . . it is clear the Legislature intended the fees at issue here to be punishment, it is ‘unnecessary to pursue any additional inquiry into their underlying character.’ [Citation.]” (*Ibid.*)² Based on our reading of *Ruiz*, lab fees (§ 11372.5, subd. (a)) and drug program fees (§ 11372.7, subd. (a)) are subject to mandatory penalty assessments. The trial court did not err in imposing penalty assessments on those fees.

² Appellant relies on *People v. Watts* (2016) 2 Cal.App.5th 223 and *People Vega* (2005) 130 Cal.App.4th 183 to argue that lab and drug program fees are not subject to penalty assessments. The court in *Ruiz* disapproved both cases. (See *People v. Ruiz*, *supra*, 4 Cal.5th at p. 1122, fn. 8.)

Disposition

The judgment is affirmed.

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YEGAN, J.

We concur:

GILBERT, P. J.

TANGEMAN, J.

Patricia Murphy, Judge

Superior Court County of Ventura

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