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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.

KAREN GUTH and JOSHUA YAGUDA,

Defendant and Appellant.

2d Crim. No. B235789
(Super. Ct. No. F423908)
(San Luis Obispo County)

Karen Guth and Joshua Yaguda appeal from an order denying their post-judgment motion for extra presentence conduct credits based on the January 25, 2010 amended version of Penal Code section 4019, also known as Senate Bill 18 (Stats. 2009-2010, 3d Ex.Sess., ch 28, § 50 (SB 18)).¹ The trial court found that SB 18, which provides for enhanced one-for-one presentence conduct credits, does not retroactively apply to appellants who were sentenced in 2009. We affirm. (*People v. Brown*, *supra*, 54 Cal.4th at p. 318.)

¹ When appellants were sentenced on December 7, 2009, Penal Code section 4019 entitled appellants to two days presentence conduct credit for every four days spent in local custody. SB 18, which became operative January 25, 2010, provided that certain qualifying prisoners could earn enhanced conduct credit at the rate of one day conduct credit for every day spent in local custody. SB 18 remained in effect until September 28, 2010 when the Legislature amended section 4019 to restore the original, lower conduct credit-earning rate. (Stats. 2010, ch. 426, § 2; see *People v. Brown* (2012) 54 Cal.4th 314, 318, fn. 3.)

In 2009 Guth and Yaguda pled guilty to multiple counts of securities fraud involving more than \$100 million in real estate-backed securities. (Corp. Code, §§ 25110, 25401, 25541.)² On December 7, 2009, the trial court sentenced Guth and Yaguda to state prison for 12 years and 8 years respectively and awarded 428 days actual custody and 214 days conduct credit (§§ 2900.5; 4019).

On May 10, 2010 appellants filed a post-judgment motion for additional presentence conduct credits (i.e., another 214 days conduct credit) based on the theory that SB 18 retroactively applied to their sentences. The trial court denied the motion.

In *People v. Brown*, *supra*, 54 Cal.4th at p. 319, our Supreme Court held that SB 18 does not apply to criminal defendants sentenced before January 25, 2010. The court further held that the equal protection clauses of the federal and state Constitutions (U.S. Const., 14th Amend; Cal. Const., art. 1, § 7, subd. (a)) do not require retroactive application of SB 18. Under the doctrine of stare decisis, *People v. Brown*, *supra*, controls and is dispositive. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.)

The judgment is affirmed.

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YEGAN, J.

We concur:

GILBERT, P.J.

PERREN, J.

² Guth also admitted a \$500,000+ taking enhancement (§ 186.11, subd. (a)(2) and a \$3.2+ million taking enhancement (former § 12022.6, subd. (a)(4)).

Jack Crawford, Judge
Superior Court County of San Luis Obispo

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