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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

PETER SANCHEZ CAMORLINGA,

Defendant and Appellant.

F086587

(Super. Ct. No. CF97598561)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Fresno County. F. Brian Alvarez, Judge.

Michelle T. LiVecchi-Raufi, under appointment by the Court of Appeal, for Defendant and Appellant.

Rob Bonta, Attorney General, Lance E. Winters, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, Kimberley A. Donohue and Carly Orozco, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Detjen, Acting P. J., Snauffer, J. and DeSantos, J.

In 2000, defendant Peter Sanchez Camorlinga was convicted by a jury of two counts of first degree murder and found to have personally used a firearm in the commission of both offenses. Defendant was 19 years of age at the time he committed the offense. He was sentenced to a total term of life without the possibility of parole (LWOP) plus 10 years. In 2022, defendant requested a hearing pursuant to *People v. Franklin* (2016) 63 Cal.4th 261 (*Franklin*), to create a record of the features of his youth that contributed to the commission of his offense for use at a possible youth offender parole hearing. The trial court denied the motion because defendant was sentenced to LWOP, rendering him ineligible for a youth offender parole hearing. Defendant argues that the denial of his request for a *Franklin* hearing based on his LWOP sentence constituted a violation of the equal protection of the law and violated his right not to suffer cruel and/or unusual punishment. The People disagree on both accounts. We affirm.

PROCEDURAL SUMMARY

On October 10, 1997, the Fresno County District Attorney filed an information charging defendant with the murder of Consuelo Garcia (Pen. Code, § 187;¹ count 1) and the murder of her unborn fetus (§ 187; count 2). As to both counts, the information further alleged defendant personally used a firearm in the commission of the offense (§ 12022.5, subd. (a)). The information further alleged the special circumstance that defendant committed two murders, at least one of which was murder in the first degree.

On March 16, 2000, the jury found defendant guilty of first degree murder on both counts and found the enhancement allegations and special circumstance allegation true.

On May 26, 2000, the trial court sentenced defendant to an aggregate term of LWOP plus 10 years as follows: on count 1, LWOP, plus a 10-year enhancement for personal use of a firearm (§ 12022.5, subd. (a)); and on count 2, LWOP, plus a

¹ All further statutory references are to the Penal Code.

10-year enhancement for personal use of a firearm (§ 12022.5, subd. (a)), to be served concurrently with the term on count 1.

On February 11, 2002, this court affirmed the judgment.

On November 23, 2022, defendant requested a *Franklin* hearing pursuant to section 1203.01 to create a record of the features of his youth that contributed to his offense for use at a later youth offender parole hearing and requested appointment of counsel.

On June 26, 2023, the trial court denied defendant's request because defendant was "presently serving a [LWOP] term for his controlling offense and [was] thus ineligible for a [y]outh [o]ffender [p]arole [h]earing."

On July 17, 2023, defendant filed a notice of appeal.

DISCUSSION²

The law provides for a youth offender parole hearing for a person sentenced to an indeterminate life sentence with the possibility of parole if they were between 18 and 25 years of age when they committed the offense.³ However, the law does not provide for a youth offender parole hearing for a person in the same age group who was sentenced to LWOP. Defendant is in the latter category—he was 19 years old when he committed the offenses at issue, and he was sentenced to LWOP. In his opening brief, defendant contends that (1) the discrepancy in treatment between the two groups violates equal protection principles, and (2) denial of the opportunity to present mitigating factors violates his constitutional right not to suffer cruel and/or unusual punishment. The People disagree on both accounts, as do we. In his reply brief, defendant concedes that

² Because defendant raises only postconviction, sentencing-related issues, the facts underlying the offenses are not relevant and are omitted from this opinion.

³ The law also provides for youth offender parole hearings for those under the age of 18 when the offense was committed, but defendant does not contend that he is similarly situated with that group.

his equal protection claim is foreclosed by *People v. Hardin* (2024) 15 Cal.5th 834 (*Hardin*) and acknowledges that this court is constrained by our Supreme Court's decision (*Auto Equity Sales Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455).

I. Youth Offender Parole Hearing and *Franklin* Hearing Framework

The parties agree, as do we, regarding the basic parameters of youth offender parole hearings and the *Franklin* hearing framework: In 2013, the Legislature enacted law, effective January 1, 2014, providing a parole eligibility mechanism for juvenile offenders. (*Franklin, supra*, 63 Cal.4th at p. 277; former § 3051; Stats. 2013, ch. 312, § 4.) Its purpose was “to establish a parole eligibility mechanism that provides a person serving a sentence for crimes that he or she committed as a juvenile the opportunity to obtain release when he or she has shown that he or she has been rehabilitated and gained maturity.” (Stats. 2013, ch. 312, § 1.) The version of section 3051 effective on January 1, 2014, applied only to juvenile offenders sentenced to indeterminate life terms with the possibility of parole. (Former § 3051, subd. (b); Stats. 2013, ch. 312, § 4.) On its face, it did not apply to juvenile offenders sentenced to LWOP or those over age 18 at the time of the offense. (Former § 3051, subds. (a)(1), (b); Stats. 2013, ch. 312, § 4.)

In 2015, section 3051 was amended to extend eligibility to youthful offenders under age 23. (Former § 3051, subds. (a)(1), (b); Stats. 2015, ch. 471, § 1.) Then in 2017, section 3051 was amended again to extend eligibility to youthful offenders aged 25 years and under. (§ 3051, subds. (a)(1), (b); Stats. 2017, ch. 675, § 1.)

Presently, “section 3051 ... requires the Board [of Parole Hearings] to conduct a ‘youth offender parole hearing’ during the 15th, 20th, or 25th year of a juvenile offender’s incarceration. [Citation.] The date of the hearing depends on the offender’s ‘[c]ontrolling offense,’ which is defined as ‘the offense or enhancement for which any sentencing court imposed the longest term of imprisonment.’ ” (*Franklin, supra*, 63 Cal.4th at p. 277; § 3051, subd. (a)(2)(B).) “A person who was convicted of a controlling offense that was committed when the person was 25 years of age or younger and for

which the sentence is a determinate sentence shall be eligible for release on parole at a youth offender parole hearing during the person’s 15th year of incarceration”; a person sentenced to an indeterminate term of less than 25 years to life is eligible at their 20th year of incarceration; and a person sentenced to an indeterminate term of 25 years to life is eligible at their 25th year of incarceration. (§ 3051, subd. (b)(1)–(3).)

Section 3051 does not create youth offender parole hearing eligibility for a person sentenced to a LWOP sentence.

Against this backdrop, our Supreme Court has established a procedure by which an inmate who will be entitled to a youth offender parole hearing may request a hearing (a *Franklin* hearing) to preserve evidence that may be used at the eventual youth offender parole hearing. (*Franklin, supra*, 63 Cal.4th at p. 269; *In re Cook* (2019) 7 Cal.5th 439, 450–451; see *Cook*, at pp. 453, 458 [the proper avenue for inmates who seek to preserve youth-related evidence following a final judgment is to file a motion under section 1203.01]; § 1203.01.) A person who cannot prove eligibility for a youth offender parole hearing is not entitled to a *Franklin* hearing. (*Cook*, at p. 458.)

II. Equal Protection

“Both the state and federal Constitutions extend to persons the equal protection of law.” (*People v. Chatman* (2018) 4 Cal.5th 277, 287.) An equal protection challenge requires a showing that the government has adopted a classification affecting two or more similarly situated groups in an unequal manner. (*People v. Wilkinson* (2004) 33 Cal.4th 821, 836.) The level of scrutiny we apply depends on the type of classification. (*Ibid.*) Statutes, such as the one in this case, neither involving a suspect class like race or national origin nor those impinging on fundamental rights, are subject to the minimum equal protection standard—rational basis review. (*People v. Turnage* (2012) 55 Cal.4th 62, 74; accord, *Hardin, supra*, 15 Cal.5th at pp. 847–848.)

Under the rational basis review, “equal protection of the law is denied only where there is no ‘rational relationship between the disparity of treatment and some legitimate

governmental purpose.’ ” (*People v. Turnage, supra*, 55 Cal.4th at p. 74.) “To successfully challenge a law on equal protection grounds, the defendant must negate ‘ “ ‘every conceivable basis’ ” ’ on which ‘the disputed statutory disparity’ might be supported. [Citation.] ‘If a plausible basis exists for the disparity, “[e]qual protection analysis does not entitle the judiciary to second-guess the wisdom, fairness, or logic of the law.” ’ ” (*People v. Acosta* (2021) 60 Cal.App.5th 769, 778.)

As noted above, our Supreme Court recently held “[i]t was not irrational for the Legislature to exclude from youth offender parole eligibility those young adults who have committed special circumstance murder, an offense deemed sufficiently culpable that it merits society’s most stringent sanctions”—death or life without the possibility of parole. (*Hardin, supra*, 15 Cal.5th at p. 864.) Expanding youth offender parole hearings to most young adult offenders, while excluding those convicted of special circumstance murder and sentenced to life imprisonment does not violate equal protection under a rational basis standard. (*Id.* at p. 866.) We are bound by our Supreme Court’s holding. (*Auto Equity Sales Inc. v. Superior Court, supra*, 57 Cal.2d at p. 455.) For that reason, defendant’s equal protection argument fails.

III. Cruel and/or Unusual Punishment

Defendant next argues that exclusion of young adult offenders sentenced to LWOP from *Franklin* hearings (at which they would have the opportunity to prove mitigating factors for youth offender parole hearings for which they are not eligible) violates the prohibition on cruel and/or unusual punishment under article I, section 17 of the California Constitution and the Eighth Amendment to the United States Constitution. The People disagree, as do we.

“The Eighth Amendment to the United States Constitution ‘guarantees individuals the right not to be subjected to excessive sanctions’ and ‘flows from the basic “ ‘precept of justice that punishment for crime should be graduated and proportioned to [the] offense.’ ” ’ [Citation.] To determine whether a punishment is cruel and unusual, ‘courts

must look beyond historical conceptions to “ ‘the evolving standards of decency that mark the progress of a maturing society.’ ” [Citation.] ‘This is because “[t]he standard of extreme cruelty is not merely descriptive, but necessarily embodies a moral judgment. The standard itself remains the same, but its applicability must change as the basic mores of society change.’ ” (*People v. Montelongo* (2020) 55 Cal.App.5th 1016, 1030.) The “Eighth Amendment ‘forbids only extreme sentences that are “grossly disproportionate” to the crime.’ ” (*People v. Edwards* (2019) 34 Cal.App.5th 183, 190.)

“ ‘Article I, section 17, of the California Constitution separately and independently lays down the same prohibition.’ ” (*People v. Edwards, supra*, 34 Cal.App.5th at p. 191.) “California’s prohibition on ‘cruel or unusual punishment’ [citation] has been read to bar any sentence ‘ “so disproportionate to the crime for which it is inflicted that it shocks the conscience and offends fundamental notions of human dignity.” ’ ” (*People v. Brewer* (2021) 65 Cal.App.5th 199, 213.) The federal and state approaches to cruel and unusual punishment claims largely “overlap,” both using “ ‘gross proportionality’ ” as their “ ‘touchstone.’ ” (*People v. Baker* (2018) 20 Cal.App.5th 711, 733.)

We review de novo a claim that a defendant’s sentence is cruel and/or unusual. (See *People v. Wilson* (2020) 56 Cal.App.5th 128, 166–167 [“ ‘[w]hether a punishment is cruel and/or unusual is a question of law subject to our independent review’ ”].)

As defendant acknowledges, the United States Supreme Court and our Supreme Court have concluded that death penalty and mandatory LWOP sentences imposed upon juveniles constitute cruel and/or unusual punishment; they have, however, not reached the same conclusion with respect to the same sentences imposed upon young adults. (*Miller v. Alabama* (2012) 567 U.S. 460, 479 [a mandatory LWOP sentence imposed upon a minor violates the Eighth Amendment because it imposes the harshest prison sentence without consideration of the hallmarks of youth]; *Hardin, supra*, 15 Cal.5th at p. 854 [“the Eighth Amendment requires that [the] opportunity [to obtain release based on

demonstrated growth and rehabilitation] be afforded only to persons who committed their crimes as juveniles”]; *People v. Gamache* (2010) 48 Cal.4th 347, 404–405 [“Neither the Eighth Amendment ... nor the corresponding provision[] of the California Constitution per se prohibit[s] death as a punishment for crimes committed when 18 years of age.”]; *Roper v. Simmons* (2005) 543 U.S. 551, 574 [“The age of 18 is ... the age at which the line for death eligibility ought to rest.”].) Indeed, our Supreme Court has held the death penalty for 18- to 21-year-olds is not cruel and unusual punishment under the Eighth Amendment. (See *People v. Flores* (2020) 9 Cal.5th 371, 429.)

Consistent with those conclusions, California’s courts of appeal have uniformly expressly rejected the argument that sentencing a young adult to LWOP violates the prohibition against cruel and/or unusual punishment. (See *People v. Acosta, supra*, 60 Cal.App.5th at p. 781 [life without the possibility of parole for a 21-year-old offender on the autism spectrum did not violate the Eighth Amendment]; *People v. Windfield* (2021) 59 Cal.App.5th 496, 525–526 [despite scientific literature showing the features of juveniles extend to 18 year olds, “we are bound by precedent and there is no precedent for us to declare that *Miller* applies to 18 year olds”]; *People v. Montelongo, supra*, 55 Cal.App.5th at p. 1032 [life without the possibility of parole for an 18-year-old offender did not violate the Eighth Amendment]; *People v. Abundio* (2013) 221 Cal.App.4th 1211, 1221 [life without the possibility of parole for an 18-year-old defendant was “not cruel and/or unusual” within the meaning of the Eighth Amendment or article I, section 17 of the California Constitution].)

“If the Eighth Amendment does not prohibit a sentence of death for 21 year olds, then most assuredly, it does not prohibit the lesser” sentence of LWOP for young adults. (*In re Williams* (2020) 57 Cal.App.5th 427, 439.) Nor does it require young adults sentenced to LWOP to be afforded *Franklin* hearings or youth offender parole hearings. For the same reasons, a sentence of LWOP, a denial of a *Franklin* hearing, and a denial of eligibility for a youth offender parole hearing for a young adult convicted of

special-circumstance murder are not so disproportionate that they violate the Eighth Amendment, nor do they violate the California Constitution's ban on cruel or unusual punishment. Defendant's sentence does not constitute cruel and/or unusual punishment.

DISPOSITION

The order is affirmed.