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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. BRIAN KEITH LAWS, Defendant and Appellant.	B335824 (Los Angeles County Super. Ct. No. KA008785)

APPEAL from an order of the Superior Court of Los Angeles County, Jacqueline H. Lewis, Judge. Affirmed.

William L. Heyman, under appointment by the Court of Appeal, for Defendant and Appellant.

Rob Bonta, Attorney General, Lance E. Winters, Chief Assistant Attorney General, Susan Sullivan Pithey, Assistant Attorney General, Noah P. Hill, Supervising Deputy Attorney General, and Nima Razfar, Deputy Attorney General, for Plaintiff and Respondent.

In 1993, a jury convicted Brian Keith Laws of special circumstance murder. He committed the murder when he was 21 years old. The trial court sentenced Laws to life without the possibility of parole (LWOP). In 2022, he requested a *Franklin*[1] proceeding pursuant to Penal Code section 1203.01,[2] seeking to preserve evidence for a future youth offender parole hearing (§ 3051). The trial court denied the motion, finding Laws was statutorily ineligible for relief. Laws contends this was error and argues section 3051's denial of relief to young offenders sentenced to LWOP violates equal protection and constitutes cruel or unusual punishment. We disagree and affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND[3]

In June 1991, Laws demanded money from a convenience store clerk, who gave him $40. Laws then shot the clerk once in the head.

In 1993, a jury convicted Laws of first degree murder (§ 187, subd. (a)), and second-degree robbery (§ 211). The jury found true the special circumstances that the murder was committed in the course of the robbery (§ 190.2, subd. (a)(17)), and that Laws personally used a firearm. (§§ 12022.5, subd. (a), 1203.06, subd. (a)(1).) The trial court sentenced Laws to LWOP plus four years. On appeal, this court affirmed the judgment.

In 2022, Laws filed a request for a *Franklin* proceeding to preserve evidence for a youthful parole hearing. The trial court denied the request.

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1 *People v. Franklin* (2016) 63 Cal.4th 261 (*Franklin*).

2 All further statutory references are to the Penal Code unless otherwise stated.

3 We grant Laws' motion to take judicial notice of this court's decision in *People v. Laws* (Apr. 22, 2022, B296014) [nonpub. opn.].) We summarize the relevant facts from the prior opinion.

Laws timely appealed.

DISCUSSION

I. *Youth Offender Parole Hearings*

Under section 3051, a person who commits a crime when he or she is under 18 years of age and is sentenced for that crime to LWOP is entitled to a youth offender parole hearing and eligible for release on parole after 25 years of incarceration. (§ 3051, subd. (b)(4).) In *Franklin*, the California Supreme Court established that defendants who are entitled to receive a youth offender parole hearing in the future have the right to make a record of information that may be relevant to that future parole hearing. (*Franklin, supra*, 63 Cal.4th at p. 284.) Courts refer to this information-preserving opportunity as a "*Franklin* hearing" (*People v. Mason* (2024) 105 Cal.App.5th 411, 414) or "*Franklin* proceeding." (*In re Cook* (2019) 7 Cal.5th 439, 450 (*Cook*).)[4] An incarcerated person whose judgment is "otherwise final" may file a motion under section 1203.01 for a *Franklin* proceeding if the person is "entitled" to a youth offender parole hearing. (*Cook, supra*, 7 Cal.5th at p. 451; see *id.* at p. 458 ["[t]he motion should establish the inmate's entitlement to a youth offender parole hearing"].)

The Legislature has determined that an individual sentenced to LWOP "for a controlling offense that was committed after the person had attained 18

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[4] In *Cook*, the Supreme Court explained that "*Franklin* processes are more properly called 'proceedings' rather than 'hearings.' A hearing generally involves definitive issues of law or fact to be determined with a decision rendered based on that determination. [Citations.] A proceeding is a broader term describing the form or manner of conducting judicial business before a court. [Citations.] While a judicial officer presides over a *Franklin* proceeding and regulates its conduct, the officer is not called upon to make findings of fact or render any final determination at the proceeding's conclusion." (*Cook, supra*, 7 Cal.5th at p. 449, fn. 3.)

years of age" is not entitled to a youth offender parole hearing. (§ 3051, subd. (h); see *People v. Hardin* (2024) 15 Cal.5th 834, 839 (*Hardin*).) The controlling offense in this case is murder, for which Laws was sentenced to LWOP. (See § 3051, subd. (a)(1)(B).) Laws murdered his victim when he was 21 years old. Therefore, he is ineligible for section 3051 relief based on the plain terms of the statute.

Laws argues that section 3051 violates equal protection and constitutes cruel or unusual punishment. We review these constitutional challenges de novo. (*California Grocers Assn. v. City of Los Angeles* (2011) 52 Cal.4th 177, 208; *People v. Ramos* (1997) 15 Cal.4th 1133, 1154.)

A. *Equal Protection*

Laws raises two equal protection violation arguments. First, he contends there is no rational basis for treating young adult offenders with LWOP sentences for special circumstances murder differently than young adult offenders serving non-LWOP sentences. Our Supreme Court rejected this argument in *Hardin, supra,* 15 Cal.5th at pages 838–839, reasoning that our Legislature could rationally "assign[ ] significance to the nature of the underlying offenses and accompanying sentences." (*Hardin, supra*, 15 Cal.5th at p. 855.) We are bound by this decision. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.)

Second, Laws contends there is no rational basis to distinguish between young adult offenders sentenced to LWOP and juvenile offenders sentenced to LWOP. But California appellate courts have concluded that the Legislature had a rational basis to distinguish between offenders with the same sentence based on their age. (E.g., *People v. Sands* (2021) 70 Cal.App.5th 193, 204; *In re Murray* (2021) 68 Cal.App.5th 456, 463-464;

People v. Morales (2021) 67 Cal.App.5th 326, 347; *People v. Jackson* (2021) 61 Cal.App.5th 189, 196–197; *People v. Acosta* (2021) 60 Cal.App.5th 769, 779–780; accord, *Miller v. Alabama* (2012) 567 U.S. 460, 471 ["children are constitutionally different from adults for purposes of sentencing"]; *Roper v. Simmons* (2005) 543 U.S. 551, 574 ["[t]he age of 18 is the point where society draws the line for many purposes between childhood and adulthood"].) We agree and see no reason to depart from these cases.

B. *Cruel or Unusual Punishment*

Laws contends that excluding young adult offenders sentenced to LWOP from youth offender parole hearings violates the prohibition on cruel or unusual punishment under the California Constitution. In making this assertion, Laws acknowledges that his sentence was neither cruel nor unusual punishment "when it was imposed." Instead, he contends his sentence became so after the Legislature amended section 3051 to provide certain juvenile offenders with parole hearings.

The Eighth Amendment to the federal Constitution prohibits "cruel and unusual punishment." (U.S. Const., 8th Amend.) The California Constitution affords somewhat greater protection to criminal defendants by prohibiting "[c]ruel or unusual punishment." (Cal. Const., art. I, § 17; see *People v. Haller* (2009) 174 Cal.App.4th 1080, 1092.) "There is considerable overlap in the state and federal approaches. 'Although articulated slightly differently, both standards prohibit punishment that is "grossly disproportionate" to the crime or the individual culpability of the defendant.' [Citation.] 'The touchstone in each is gross disproportionality.' [Citation.]" (*People v. Baker* (2018) 20 Cal.App.5th 711, 733.)

Applying this principle, our Supreme Court held in *People v. Flores* (2020) 9 Cal.5th 371, that the death penalty for young adult offenders (age 18 to 21) who committed homicide was not unconstitutionally disproportionate. (*Id*. at p. 429.) If a death sentence for young adults in this age range is not disproportionate, then a lesser sentence of LWOP for young adults in the same age range is not. (Accord, *In re Williams* (2020) 57 Cal.App.5th 427, 439; *People v. Argeta* (2012) 210 Cal.App.4th 1478, 1482 [rejecting claim that a functional LWOP sentence for an 18-year-old offender is cruel and/or unusual punishment].)

In his reply brief, Laws attempts to distinguish some of the cases cited above on the ground that they focus on the federal Eighth Amendment standard rather than California's standard, but both standards turn on proportionality. There is no basis for interpreting proportionality differently in the context of this case.

DISPOSITION

The trial court's order is affirmed.

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ZUKIN, P. J.

We concur:

MORI, J.

VAN ROOYEN, J.*

*Judge of the San Luis Obispo Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.