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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

ROY LEE LESNER,

Defendant and Appellant.

E032241

(Super.Ct.No. INF036026)

**OPINION**

APPEAL from the Superior Court of Riverside County. Robert Gregory Taylor, Judge. Affirmed.

Lynelle K. Hee, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Gary W. Schons, Senior Assistant Attorney General, Raquel Gonzalez, Supervising Deputy Attorney General, and Roberta L. Davis, Deputy Attorney General, for Plaintiff and Respondent.

In 2001, an information was filed charging defendant with, among other things, two counts of lewd acts on a child under 14 (Pen. Code, § 288, subd. (a)). In 2002, a jury convicted him on these two counts. It specifically found that these counts were not time-barred. Defendant was sentenced to six years in prison.

In 1986 and 1987, when these crimes were committed, they were subject to a six-year statute of limitations. (Pen. Code, § 800; see also Pen. Code, §§ 288, 805.) In 1993, however, the Legislature enacted what is now Penal Code section 803, subdivision (g) (section 803(g)). (Stats. 1993, ch. 390, § 1, p. 2226.) It became effective on January 1, 1994. Generally speaking, section 803(g) allows the People to charge specified sexual offenses within one year after the victim reports the crime to police, even though the statute of limitations has otherwise expired, provided (1) the crime involved “substantial sexual conduct,” and (2) the victim’s report is “convincingly” corroborated by independent admissible evidence. It is undisputed that all of section 803(g)’s criteria were satisfied and that, by its terms, it applied to the charges in this case.

Defendant’s sole appellate contention is that section 803(g), as applied to him, violates ex post facto principles and due process. Although he did not raise this particular contention below, he is entitled to raise it for the first time on appeal. (See *People v. Williams* (1999) 21 Cal.4th 335, 339 [“a defendant may assert the statute of limitations at any time”].)

As defendant acknowledges, in *People v. Frazer* (1999) 21 Cal.4th 737, cert. den. (2000) 529 U.S. 1108 [120 S.Ct. 1960, 146 L.Ed.2d 792], the California Supreme Court held that section 803(g) is not an unconstitutional ex post facto law (*id.* at pp. 754-765); it

also held that section 803(g) does not violate due process. (*Id.* at pp. 765-775.) He argues, however, that *Frazer* has been “undermined” by the opinion of the United States Supreme Court in *Carmell v. Texas* (2000) 529 U.S. 513 [120 S.Ct. 1620, 146 L.Ed.2d 577]. Recently, in *People v. Zandrino* (2002) 100 Cal.App.4th 74, a sister court of ours rejected this precise contention. (*Id.* at pp. 82-84.) We find *Zandrino* persuasive, and we adopt its reasoning. Accordingly, we affirm.

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RICHLI  
J.

We concur:

RAMIREZ  
P.J.

KING  
J.