

CERTIFIED FOR PUBLICATION
IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL ALDANA et al.,

Defendants and Appellants.

G040320

(Super. Ct. No. RIF111207)

ORDER MODIFYING OPINION
AND DENYING PETITION FOR
REHEARING; NO CHANGE IN
JUDGMENT

It is ordered that the opinion filed herein on June 8, 2009, be modified as follows:

1. On page 9, at the end of the paragraph that continues from page 8, after the last sentence ending “instructional error,” add as footnote 6 the following footnote, which will require renumbering of all subsequent footnotes:

⁶ Section 424(a)(3) does not require that the defendant act “[w]ithout authority of law” (§ 424(a)(1)), or use public moneys “for any purpose not authorized by law” (§ 424(a)(2)). Our holding is not intended to read into section 424(a)(3) elements of section 424(a)(1) or 424(a)(2). However, as we explained *ante*, if a defendant knowingly acts without authority of law, he or she has the guilty knowledge necessary to prove a violation of section 424(a)(3).

2. On page 14, in the second full paragraph beginning “Based on the record before us,” delete the entire last sentence beginning “There was insufficient evidence,” and replace it with the following new sentence:

There was insufficient evidence that Matney knew her inaccurate recording of Aldana’s time constituted criminal conduct, or that she was criminally negligent in not knowing such actions constituted criminal conduct; therefore, her conviction for violation of section 424(a)(3) must be reversed.

These modifications do not effect a change in the judgment. The petition for rehearing is DENIED.

FYBEL, J.

WE CONCUR:

ARONSON, ACTING P. J.

IKOLA, J.