

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

THE PEOPLE,

Plaintiff and Appellant,

v.

TONY ROBIN WAGNER,

Defendant and Respondent.

E047167

(Super.Ct.No. SWF015764)

ORDER MODIFYING OPINION

[NO CHANGE IN JUDGMENT]

THE COURT

It is ordered that the opinion filed here on July 21, 2009, be modified as follows:

The second sentence in the last paragraph on page 26 and continuing on page 27 is modified to read:

Rather than refile the case, they appealed the first dismissal; they did not file a petition for writ of mandate attacking the dismissal, which would not have foreclosed their right to refile.

Except for this modification, the opinion remains unchanged. This modification does not effect a change in judgment.

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RICHLI
Acting P.J.

We concur:

GAUT J.
MILLER J.