

CERTIFIED FOR PUBLICATION

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

STEVEN DAVID CATLIN,

Petitioner,

v.

SUPERIOR COURT OF KERN COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

F053705

(Super Ct. No. 30594)

**ORDER MODIFYING OPINION AND
DENYING PETITION FOR
REHEARING
[NO CHANGE IN JUDGMENT]**

THE COURT:

It is ordered that the opinion filed herein on August 22, 2008, be modified as follows:

1. On page 3, the third full paragraph beginning “On September 14, 2007” is deleted and the following paragraph inserted in its place:

On September 14, 2007, Catlin filed a petition for writ of mandate in this court seeking an order directing the trial court to grant his motion. On October 5, 2007, we denied Catlin’s petition for writ of mandate, after his petition for writ of habeas corpus had been denied by the Supreme Court. On October 16, 2007, Catlin filed a petition in the Supreme Court seeking review of our order. On November 28, 2007, Catlin’s petition for review was granted, and the matter was transferred to this court with directions to vacate our order denying his petition for writ of mandate and to issue an

alternative writ directing Kern County Superior Court to grant the motion or show cause why it should not be granted. We did so.

Except for the modification set forth, the opinion previously filed remains unchanged. There is no change in judgment.

Appellant's petition for rehearing is denied.

Dawson, J. would grant the petition.

CORNELL, Acting P.J.

I CONCUR:

KANE, J.