

CERTIFIED FOR PUBLICATION

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

THE PEOPLE,

Plaintiff and Respondent,

v.

JOHN MOSE CAUDILLO,

Defendant and Appellant.

H026166

(Santa Clara County  
Super. Ct. No. CC127061 )

ORDER MODIFYING OPINION  
AND DENYING REHEARING

**[NO CHANGE IN JUDGMENT]**

THE COURT:

It is ordered that the opinion filed herein on Oct. 7, 2004, be modified in the following particulars:

1. The paragraph commencing at the bottom of page 15 with “After defendant’s opening” and ending at the top of page 16 with “Confrontation Clause claim” is modified to read as follows:

After defendant’s opening brief was filed, the United States Supreme Court decided *Crawford v. Washington* (March 8, 2004, No. 02-9410) \_\_\_ U.S. \_\_\_ [124 S.Ct. 1354] (*Crawford*). In his reply brief, defendant relies on *Crawford* to bolster his Confrontation Clause claim.

2. On page 16, the first full paragraph is deleted.

3. On page 18, the last sentence of the second full paragraph is deleted.

4. The four paragraphs commencing in the middle of page 19 with “In *People v. Cage*” and ending at the bottom of page 20 with “(*Id.* at p. 785.)” are deleted.

5. On page 22, the first sentence of the first full paragraph commencing with “Defendant contends that” is modified to read as follows:

Defendant contends that *Moscat* is wrongly decided and that his position is supported by another New York case, *People v. Cortes* (2004) 781 N.Y.S.2d 401.

The petition for rehearing is denied.

This modification does not effect a change in the judgment.

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BAMATTRE-MANOUKIAN, J.

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PREMO, Acting P.J.

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WALSH, J.\*

\* Judge of the Santa Clara Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.