

CERTIFIED FOR PARTIAL PUBLICATION*

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

REYAS CONCHA AND JULIO
HERNANDEZ,

Defendants and Appellants.

B195197

(Los Angeles County
Super. Ct. No. BA287017)

MODIFICATION OF OPINION AND
DENIAL OF PETITION FOR
REHEARING
[CHANGE IN JUDGMENT]

THE COURT:*

It is ordered that the opinion filed herein on March 18, 2008, is hereby modified as follows:

1. The last sentence of the first paragraph and entire second paragraph of **ARGUMENT** section **G**. are deleted and replaced with:

“It therefore appears that Concha should have been sentenced to life with the possibility of parole on Count 2, the attempted murder charge. (See § 1168, subd. (b) [court imposing an indeterminate sentence “shall not fix the term or duration of the period of imprisonment”]; but see § 3046, subd. (a)(1) [defendant imprisoned under a life

* Pursuant to California Rules of Court, rules 8.1100 and 8.1110, this opinion is certified for partial publication.

sentence not eligible for parole until he or she has served a minimum “term of at least seven years”].)

As to Hernandez, who admitted he had suffered a prior conviction of a serious or violent felony, it appears he should have been sentenced to a term of fourteen years to life on Count 2 – the seven year minimum parole eligibility period under section 3046, subdivision (a)(1) doubled pursuant to section 667, subdivision (e)(1). (See *People v. Jefferson* (1999) 21 Cal.4th 86, 96.)

The abstracts of judgment must be modified to reflect these sentences.”

2. The first sentence of the **DISPOSITION** is deleted and replaced with:

“The abstract of judgment as to Hernandez shall be modified to reflect that Hernandez was sentenced to seven years to life, doubled to 14 years under sections 3046, subdivision (a)(1) and 667, subdivision (e)(1), respectively; and the abstract of judgment as to Concha shall be modified to reflect that Concha was sentenced to a life term with the possibility of parole.”

The petitions for rehearing are denied.

ARMSTRONG, J.

*MOSK J.

I would grant the petitions for rehearing.

TURNER, P.J.