

CERTIFIED FOR PUBLICATION

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

THE PEOPLE,

Plaintiff and Respondent,

v.

J.I.A.,

Defendant and Appellant.

G040625

(Super. Ct. No. 04NF4197)

ORDER MODIFYING OPINION;
NO CHANGE IN JUDGMENT

On our own motion and for good cause (Cal. Rules of Court, rule 8.264(c)(1)), it is ordered that the opinion filed herein on June 8, 2011, be modified in the following particulars:

1. On page 1, in the caption, after “J.I.A.,” footnote 1 is added:

“Although we are aware of Penal Code sections 953 and 959, given the unusual circumstances of this case (there was evidence J.I.A. was a victim of sex crimes, and portions of the record were filed under seal), we have used a protective nondisclosure caption and refer to the defendant, J.I.A., by his initials throughout the opinion. (See *People v. C.S.A.* (2010) 181 Cal.App.4th 773, 776, fn. 1.)”

2. On page 17, in the first paragraph, after the third sentence and the legal citation, footnote 5 is added:

“In *People v. Nunez* (2011) 195 Cal.App.4th 414 (*Nunez II*), the court explained that on remand from *In re Nunez, supra*, 173 Cal.App.4th 709, the trial court imposed a sentence that made defendant eligible for parole in 175 years. (*Nunez II, supra*, 195 Cal.App.4th at p. 417.) Relying on *Graham, supra*, 130 S.Ct. 2011, and *Mendez, supra*, 188 Cal.App.4th 47, this court again held defendant’s sentence was

unconstitutional under the federal and state constitutions because the sentence denied him a meaningful opportunity for release within his lifetime. (*Nunez II, supra*, 195 Cal.App.4th at pp. 425, 426-427.) The court remanded the matter for a third sentencing hearing. (*Id.* at p. 430.)”

3. On page 18, in the last paragraph, the first sentence is deleted and replaced with the following:

“Although we agree the trial court was required to impose mandatory consecutive sentences on counts 1 and 7 pursuant to section 667.6, subdivision (d), we conclude the court was not required to impose mandatory consecutive sentences on counts 2 and 6 pursuant to section 667.6, subdivision (c).”

This modification does not effect a change in judgment.

O’LEARY, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

FYBEL, J.