

CERTIFIED FOR PUBLICATION  
IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

BART ALAN LYONS,

Defendant and Appellant.

2d Crim. No. B212253  
(Super. Ct. No. 2008015626)  
(Ventura County)

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

THE COURT:

It is ordered that the opinion filed herein on November 5, 2009, be modified as follows:

At the end of the first full paragraph on page six, after the quote "party making it").) add as footnote 4 the following:

On petition for rehearing, appellant argues that the general habeas corpus power of the Superior Court is broad enough to include the granting of "Benoit" relief. (*People v. Benoit, supra*, 10 Cal.3d 72.) Our opinion only limits the habeas power in the sui generis "Benoit" context and in no other. There is a good reason for this rule. The Superior Court should have no power to lengthen the jurisdictional time limit for an appeal to a different and higher court. If appellant is correct, rule 8.308 (d) (see *ante*, p. 4) is no longer viable. Upon a proper showing in the Court of Appeal, "Benoit" relief is granted and there is no good reason to change this rule which has worked well since 1972.

[There is no change in judgment.]

Appellant's petition for rehearing is denied.

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