

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

PHILLIP SPECTOR,

Defendant and Appellant.

B216425

(Los Angeles County
Super. Ct. No. BA255233)

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

THE COURT:

It is ordered that the opinion filed herein on May 2, 2011, be modified as follows:

On page 36, line 13, replace footnote 12 with the following footnote.

¹² Spector also mentions that, during closing argument, the “prosecution displayed three still pictures of Judge Fidler as a party who had provided evidence of guilt.” However, Spector did not properly raise this as an independent issue in his opening brief, and therefore we decline to address it. (See *Moore v. Shaw* (2004) 116 Cal.App.4th 182, 200, fn. 10 [“Ordinarily, an appellant’s failure to raise an issue in its opening brief waives the issue on appeal.”]; *Jones v. Superior Court* (1994) 26 Cal.App.4th 92, 99 [“Issues do not have a life of their own: if they are not raised . . . we consider the issues waived.”].) Spector briefly referred to these still pictures in the

statement of facts relating to his videotape claim, and then in an argument about harmless error relating to the videotape claim. This cursory treatment in Spector's opening brief does not constitute an adequate presentation of the issue. (See *T.P. v. T.W.* (2011)

191 Cal.App.4th 1428, 1440, fn. 12; *City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal.App.4th 29, 51-52.)

These still photographs have apparently not been made part of the appellate record. Moreover, given the overwhelming evidence against Spector, we cannot see how the issue could have prejudiced him.

[There is no change in the judgment.]

Appellant's petition for rehearing is denied.