

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

In re JIMMY RICHARDSON

on Habeas Corpus.

C062684

(Super. Ct. No.
07F11128)

ORDER MODIFYING
OPINION
[NO CHANGE IN
JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on June 13, 2011, be modified as follows:

The last paragraph beginning on page 19 and continuing on page 20 is deleted and the following paragraph is inserted in its place:

It also was not unreasonable here because the Supreme Court, when it granted review in *Trujillo*, gave no indication it would resolve the issue it did not address in *Reed*. The court initially granted review in *Trujillo* on a "grant and hold" basis

behind another case (*People v. Samples*, S112201) which did not concern the admissibility of probation report admissions to prove a strike. (*People v. Trujillo*, S130080, Supreme Ct. mins., Feb. 16, 2005; see also *People v. Samples* (Nov. 7, 2002, D039196) [nonpub. opn.], review granted Feb. 25, 2003, S112201, review dism. May 9, 2007.) The court then ordered briefing in *Trujillo* on whether the People could appeal a trial court's order that found a prior conviction was not a strike. (*People v. Trujillo*, S130080, Supreme Ct. mins., May 18, 2005.) Later, the court ordered supplemental briefing on the merits of the trial court's determination that the prior conviction was not a strike. (*People v. Trujillo*, S130080, Supreme Ct. mins., Apr. 26, 2006.) Nothing in the court's notices in *Trujillo* would have led an attorney to reasonably believe the court was going to address whether probation report admissions were admissible to prove a strike.

This modification does not change the judgment.

THE COURT:

NICHOLSON, Acting P. J.

ROBIE, J.