

CERTIFIED FOR PUBLICATION

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

THE PEOPLE,

Plaintiff and Respondent,

v.

JAVID PATEL,

Defendant and Appellant.

C066321

(Super. Ct. No.
10F03119)

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

THE COURT:

It is ordered that the opinion filed herein on June 21, 2011, be modified as follows:

On page 7, at the end of the sentence reading "It will no longer be necessary to seek a modification of a probation order that fails to expressly include such a scienter requirement," add as footnote 4 the following footnote:

Our decision does not prevent appellate counsel from seeking to make explicit what we have now deemed included by operation of law through an application to the trial court to make any requested clerical modifications of the probation order, over which the trial court maintains jurisdiction to make any changes in conditions. (Pen. Code, § 1203.1, subd. (j).) This procedure is analogous to that established in *People v. Fares* (1993) 16 Cal.App.4th 954 for resolution of issues involving conduct credits, later given legislative endorsement (Pen. Code, § 1237.1), which concluded that it is proper to require an initial resort to the trial court before permitting an

appeal if an effective remedy is available there.
(*Fares*, at p. 959.)

There is no change in the judgment.

Appellant's petition for rehearing is denied.

BY THE COURT:

RAYE, P. J.

HULL, J.

HOCH, J.