

**CERTIFIED FOR PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

ALBERT KINGSBERRY,

Defendant and Appellant.

B227750

(Los Angeles County  
Super. Ct. No. KA058795)

**ORDER MODIFYING OPINION  
AND DENYING PETITION FOR  
REHEARING**

[No change in the judgment]

IT IS ORDERED that the opinion filed in the above-captioned matter on October 26, 2011, be modified as follows:

1. On page 11, the first full paragraph that begins with “In Kingsberry’s current case” should be deleted and replaced with:

“In Kingsberry’s current case, it is undisputed that his *conviction* by plea occurred before the effective date of section 1465.8. The respective dates are December 2002 and August 2003. It is also undisputed that the date of Kingsberry’s original sentencing hearing on his conviction occurred before the effective date of section 1465.8. The respective dates are March 2003 and August 2003. It goes without saying that no court security fee under section 1465.8 was imposed at the time of the original sentencing hearing in March 2003, given that the security fee statute did not exist at the time. A court security fee was first imposed at the time the trial court revoked probation and sentenced Kingsberry to state prison in September 2007. He did not appeal the fee at that time. After that sentence was

vacated, the security fee was imposed again at the new sentencing hearing in July 2010.”

2. On page 11, second paragraph, the first sentence should be deleted and replaced with:

“The issue presented in Kingsberry’s current case is whether the trial court properly imposed the fee prescribed by section 1465.8 at the time it sentenced Kingsberry to state prison in July 2010.”

3. On page 11, third paragraph, second sentence, the word “ordinarily” should be deleted so that the sentence now reads:

“In the trial court, fees are not imposed upon a defendant upon his or her ‘conviction.’”

4. On page 11, third paragraph, the third sentence should be deleted and replaced with:

“The procedure is conviction, followed by a sentencing hearing at which time the trial court fixes the appropriate punishment, including applicable fees.”

This modification effects no change in the judgment.

The petition for rehearing filed by Appellant on November 7, 2011, is denied.

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BIGELOW, P. J.

FLIER, J.

GRIMES, J.