

Filed 2/11/20

**IN THE SUPREME COURT OF  
CALIFORNIA**

THE PEOPLE,  
Plaintiff and Respondent,

v.

JAMES DAVID BECK and GERALD DEAN CRUZ,  
Defendants and Appellants.

S029843

Alameda County Superior Court  
110467-A and 110467-B

---

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

THE COURT:

The opinion in this matter filed on December 2, 2019, and appearing at 8 Cal.5th 584, is modified as follows:

In the paragraph spanning pages 644 and 645, in the sentence beginning “We conclude there is no reasonable probability,” the phrase “there is no reasonable probability Beck and Cruz were prejudiced by any error” is replaced by the phrase “the instructional error was harmless beyond a reasonable doubt.” As modified, the sentence now reads:

We conclude the instructional error was harmless beyond a reasonable doubt.

This modification does not change the judgment.

The petition for rehearing is denied.