

## IN THE SUPREME COURT OF CALIFORNIA

THE PEOPLE,	)	
	)	
Plaintiff and Respondent,	)	
	)	S148204
v.	)	
	)	Ct.App. 6 H028783
ROGER WILLIAM MENTCH,	)	
	)	Santa Cruz County
Defendant and Appellant.	)	Super. Ct. No. 07429
_____	)	

### ORDER MODIFYING OPINION

#### THE COURT:

The People's request for modification of the court's opinion filed herein on November 24, 2008, is granted. It is ordered that, at page 6 of the filed opinion, footnote 3 is modified to read as follows:

The Act extends limited immunity from state prosecution for cultivation or possession to both qualified patients and their designated "primary caregiver[s]." (§ 11362.5, subd. (d).)

On the court's own motion, a new footnote 5 is ordered inserted after the partial paragraph at the top of page 11 of the filed opinion that ends with ". . . to bless prior use].)" The footnote shall read as follows:

In holding that the assumption of primary caregiver responsibilities cannot apply retroactively to immunize prior cultivation or possession of marijuana, we do not suggest it would not apply prospectively. Defendants who show they satisfied all other prerequisites for primary caregiver status for a given patient at some point after the onset of providing

marijuana may avail themselves of the defense going forward, even if they remain subject to prosecution for actions taken prior to assumption of a primary caregiver role.

All subsequent footnotes shall be renumbered accordingly. This modification does not affect the judgment.