

IN THE SUPREME COURT OF CALIFORNIA

THE PEOPLE,)	
)	
Plaintiff and Appellant,)	
)	S129755
v.)	
)	
JARED JACOB STANDISH,)	
)	Los Angeles County
Defendant and Respondent.)	Super. Ct. No. MA 025716
_____)	

MODIFICATION OF OPINION

THE COURT:

The opinion herein, filed on June 5, 2006, which appears at 38 Cal.4th 858, is modified in the following respects:

1. At page 881 the sentence in the paragraph that runs over onto page 882 is deleted, and the following sentence is inserted:

In addition, although we certainly do not mean to minimize public safety as a valid concern, we point out that when the prosecution is unable to proceed within the statutory period, it has the option of seeking to dismiss the complaint and refile immediately (§ 1387; see also § 1387.1 [permitting an additional dismissal and refile for violent felonies]), thereby avoiding any gap in maintaining the defendant in custody.

2. At page 883 the second sentence of the second full paragraph is deleted, and the following sentence is inserted:

Indeed, even when a court orders OR release pursuant to section 859b, the defendant may remain in custody if the prosecutor obtains a dismissal and refiles the complaint.

3. At page 883 the sentence comprising the third paragraph that runs over onto page 884 is deleted, and the following sentence is inserted:

If the prosecutor can avoid OR release by obtaining a dismissal and refile the complaint, and a defendant who properly was released on OR after the prosecution secured a continuance for good cause can be remanded at the time of the probable cause determination, it would be out of proportion to the potential for impact upon the fairness of the preliminary examination to hold that a failure to grant OR release pending the preliminary examination necessarily gives the defendant a remedy that extends *beyond* the probable cause determination—a remedy that could be draconian from the perspective of the prosecution.

4. At page 885 the first sentence of the first full paragraph is deleted, and the following sentence is inserted:

Nor does our decision in *People v. Pompa-Ortiz* (1980) 27 Cal.3d 519 provide support for defendant.

5. At page 885 the first sentence of the second full paragraph is deleted, and the following sentence is inserted:

Our decision in *People v. Pompa-Ortiz* must not be read overbroadly.

6. At page 885 the third sentence of the second full paragraph is deleted, and the following sentence is inserted:

Under any other interpretation, defendant would be entitled to dismissal of the information even if, following improper denial of his request for OR release, he had been able to post bail immediately and thus had not been in custody while awaiting the preliminary examination.

7. At page 886 the first sentence of the first full paragraph is deleted, and the following sentence is inserted:

The Court of Appeal relied upon dictum in another decision of this court,
Stroud v. Superior Court (2000) 23 Cal.4th 952.

This modification does not effect a change in the judgment.