

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

VICKI LYNN MILLER,

Defendant and Appellant.

B201134

(Los Angeles County
Super. Ct. No. NA069100)

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

THE COURT:*

It is ordered that the petition for rehearing, filed by appellants on July 14, 2008, is denied; and that the opinion filed herein on July 2, 2008, be modified as follows:

At page 4, lines 7-8, the phrase “the fire department insignia and his name” is omitted and the phrase “Long Beach Fire Department rescue markings” is inserted in its place.

At page 12, line 3, the word “did” is omitted.

At page 12, line 21, after the word “retrial,” the following footnote is added:

“That the jury convicted appellant of the evading charge does not alter our conclusion concerning prejudice. As respondent contends, the jury necessarily found that at some point in her drive along the bicycle path, appellant perceived

what appeared to be a pursuing peace officer's vehicle and willfully fled with the intent to elude it. It does not necessarily follow, however, that her mental state was the same at the time of the assault. The jury's concern about the evidence of changes in her awareness or mental state at different points in time was clear from its inquiry of the court."

All subsequent footnotes are renumbered.

At page 19, line 4, the word "indeterminate" is deleted and the word "determinate" is inserted in its place.

There is no change in the judgment.