

Filed 7/1/10

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

In re TIMOTHY ROSS on Habeas Corpus.

C062466

(Super.Ct.No.
06HB1582)

ORDER MODIFYING
OPINION AND DENYING
REHEARING; NO CHANGE
IN JUDGMENT

THE COURT:

It is ordered that the opinion filed in this case on June 11, 2010, be modified in the following particulars:

1. On page 11, footnote 5, delete the five word introductory phrase of the first sentence (Although not cited by Ross,) so that the first sentence of the footnote reads:

In re Masoner (2009) 179 Cal.App.4th 1531 (hereafter *Masoner*) held that, when a court concludes there is no evidence to support the Governor's reversal of the Board's parole suitability finding, the remedy is to reinstate the Board's finding, rather than to remand the matter to the Governor for further reconsideration in accordance with due process of law.

There is no change in the judgment.

The petition for rehearing is denied.

FOR THE COURT:

SCOTLAND, P. J.

NICHOLSON, J.

ROBIE, J.