

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

JUAN RODRIGUEZ,

Defendant and Appellant.

B179600

(Los Angeles County
Super. Ct. No. MA025392)

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

THE COURT:*

It is ordered that the petition for rehearing, filed by respondent on December 6, 2007, is denied; and that the opinion filed herein on November 21, 2007, be modified in the following particulars:

1. At page 3, the first sentence of the second full paragraph, beginning with “As to count 7, the court imposed . . . ,” the phrase “(one-third the middle term under section 186.22, subdivision (b)(1)(C))” is deleted and replaced with the following:

“(one-third the 10-year term under section 186.22, subdivision (b)(1)(C)).”

2. At page 5, the first sentence of the second full paragraph, beginning with “Another court held that. . . ,” is deleted.

3. At page 5, the last sentence of the second full paragraph, “We agree,” is deleted.

4. At page 8, at the conclusion of the first sentence of the first full paragraph, beginning with “In a case analogous to” and ending with “the same incident.” a footnote is inserted after “incident.” as follows:

“4. In *People v. Oates, supra*, 32 Cal.4th 1048, the California Supreme Court criticized *Moringlane* for its failure to consider the issue of multiple victims, observing that the appellate court relied upon now disapproved authority prohibiting multiple enhancement in cases involving one act and multiple victims. (*Oates*, at pp. 1067-1068.) The court did not include *Reeves* in its criticism, noting that although *Reeves* relied upon *Moringlane*, it did not involve multiple victims. (*People v. Oates, supra*, at p. 1068, fn. 9.) Although there were multiple victims in the instant case, we apply the reasoning of *Reeves* to each victim. See footnote 3, *ante*.”

The remaining footnotes in the opinion are renumbered accordingly.

5. At page 11, footnote 7 of the original opinion, the final sentence, beginning with “Thus, the sentencing court . . . ,” is deleted, and replaced with the following:

“Thus, the sentencing court may not choose to impose and stay the lesser enhancement of section 186.22, subdivision (b)(1)(A), once the elements of subdivision (b)(1)(C) are found to be true.”

There is no change in the judgment.