

**CERTIFIED FOR PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT

THE PEOPLE,  
Plaintiff and Respondent,

v.

ANTHONY RALPH MONTES,  
Defendant and Appellant.

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THE PEOPLE,

Plaintiff and Respondent,

v.

RUTIN PABLO HERRERA,  
Defendant and Appellant.

F040612m

(Super. Ct. No. 83300A)

F040618

(Super. Ct. No. 083300B)

ORDER MODIFYING OPINION  
AND DENYING REHEARING

[CHANGE IN JUDGMENT]

**THE COURT**

It is ordered that the opinion filed herein on October 31, 2003, is modified as follows:

(1) On page 9, line 23, the word, appellant's, is deleted and replaced with the word, respondent's.

(2) On page 10, line 15, the word, appellant's, is deleted and is replaced with the word, respondent's.

(3) On page 11, the words, "The judgment is reversed," are deleted and replaced with the following:

The judgment of conviction in case No. SC083388A  
(appellant Montes; F040612) is reversed as to count 3 only

(attempted voluntary manslaughter), and the matter is remanded to the superior court for resentencing. The judgment of conviction in case No. SC083300B (appellant Herrera; F040618) is reversed as to count 1 only (attempted voluntary manslaughter), and the matter is remanded to the superior court for resentencing.

Appellant's petition for rehearing is denied.

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Ardaiz, P. J.

WE CONCUR:

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Buckley, J.

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Wiseman, J.