

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

RICHARD ALBERT ORMONDE,

Defendant and Appellant.

H028471

(Santa Clara County

Super. Ct. No. CC312362)

**ORDER MODIFYING OPINION
AND DENYING REHEARING**

NO CHANGE IN JUDGMENT

BY THE COURT:

It is ordered that the opinion filed herein on August 25, 2006, and certified for publication on September 25, 2006, be modified as follows:

The first full paragraph on page 15 should end with the sentence: “Without either probable cause or a reasonable suspicion to believe that there were potentially dangerous persons inside defendant’s apartment, the entry into defendant’s apartment violated the Fourth Amendment.”

The next sentence should be deleted, and a new paragraph should follow, which states:

“The Attorney General further argues that even if the initial entry was illegal, the evidence should not be suppressed, because the consents to search given by defendant and Myers were independent intervening acts which attenuated the taint of the illegal entry. (*People v. Gonzalez* (1998) 64 Cal.App.4th 432, 444.) Given the totality of the circumstances here, we reject this argument, as did the trial court. In our view, the illegal entry inexorably led to the search and

seizure of the contraband challenged here, and defendant's motion to suppress should have been granted."

This modification does not affect the judgment.

The petition for rehearing is denied.

McAdams, J.

Elia, Acting P.J.

Mihara, J.