

**CERTIFIED FOR PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re JOHNNY LIRA,  
  
on Habeas Corpus.

H036162  
(Santa Clara County  
Super. Ct. No. 76836)

**ORDER MODIFYING OPINION**

**NO CHANGE IN JUDGMENT**

THE COURT:

It is ordered that the opinion filed herein on December 6, 2011, be modified as follows:

1. The paragraph commencing at the bottom of page 2 with “In November 2008” and ending at the top of page 3 with “April 8, 2010” is modified to read as follows:

In November 2008, the Board conducted a new hearing, found Lira suitable for parole, and set his term of imprisonment at 216 months (18 years). In April 2009, then Governor Schwarzenegger vetoed the Board’s decision, finding that Lira would pose a danger if released. In November 2009, the Board held the next regularly scheduled parole hearing, again found Lira suitable for parole, and set his term of imprisonment at 228 months (19 years). In December 2009, before the Board’s decision became final and effective, Lira filed a writ petition challenging the Governor’s 2009 veto. He alleged that it was not supported by some evidence and thus violated his right to procedural due process. In April 2010, while Lira’s petition was still pending, Governor Brown declined to review the Board’s latest decision to grant parole. Thereafter, the Board ordered Lira released on parole for three years effective April 8, 2010.

There is no change in the judgment.

Dated:

---

RUSHING, P.J.

WE CONCUR:

---

PREMO, J.

---

ELIA, J.