

IN THE SUPREME COURT OF CALIFORNIA

THE PEOPLE,)	
)	S029588
Plaintiff and Respondent,)	
)	Tulare County
v.)	Super. Ct. No. 27383
)	
CHARLES KEITH RICHARDSON,)	
)	
Defendant and Appellant.)	
_____)	

MODIFICATION OF OPINION

THE COURT:

The opinion herein, filed on May 22, 2008, appearing at 43 Cal.4th 959, is modified as follows:

1. The first sentence of part c. on page 980 is modified to read:

DNA in semen found on a rectal slide taken from April was found to be consistent with Steven Brown's DNA.

2. On page 1017, before the heading "*3. Sufficiency of the Evidence for Lewd Conduct,*" the following subheading and paragraph are inserted:

c. Comparison of Photographs

Defendant also argues the prosecutor committed misconduct in closing argument because he "improperly asked the jury to second-guess the experts by becoming experts themselves and compare the photographs of the pubic hair evidence to decide for themselves whether they matched." Defendant failed to object to the prosecutor's argument on this ground and thus failed to preserve the issue for appeal. (*People v. Hill* (1998) 17 Cal.4th 800, 820.) Were we to reach the issue, we would find no error. The permissible scope of closing argument is

broad, and the prosecutor's recommendation that the jury should use its common sense when both evaluating conflicting expert evidence and examining the photographs fell well within the boundaries of permissible argument.

This modification does not affect the judgment.