

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

CARLOS PANIAGUA,,

Defendant and Appellant.

A136702

(San Francisco City & County
Super. Ct. No. 174118)

BY THE COURT:¹

Defendant Carlos Paniagua appeals from the order denying his motion for unconditional release under Welfare and Institutions Code section 6608. At the time the motion was made and denied, defendant had been adjudicated a sexually violent predator and committed for treatment. That adjudication was reversed in *People v. Paniagua* (2012) 209 Cal.App.4th 499. Therefore, counsel for defendant argues as follows: that “the underlying judgment in the current case should be treated as void. Welfare and Institutions Code section 6608 only allows a petition for conditional release or unconditional discharge to be filed by a person who has been committed as a sexually violent predator. At this point in time, my client has not been committed as a sexually violent predator.” Defendant’s requested remedy is that “this Court summarily reverse

¹ Before Kline, P.J., Richman, J., Lambden, J.

the underlying judgment and remand the matter to the trial court with directions to dismiss my client's Section 6608 petition as moot given the absence of an underlying sexually violent predator commitment."

We solicited the Attorney General's opinion. Although the Attorney General believes it would be sufficient to dismiss this appeal as moot, "we do not object to appellant's proposed remedy."

Accordingly, the motion is granted. The order is reversed and the cause is remanded to the trial court with directions to dismiss defendant's motion for unconditional release as moot. This decision is final as to this court forthwith.