

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

JESSE ISAIAS SANTANA,

Petitioner,

v.

THE SUPERIOR COURT OF YUBA COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

C066008

(Super. Ct. No.
CRF-08-825)

DAVID WILLIAM VASQUEZ,

Petitioner,

v.

THE SUPERIOR COURT OF YUBA COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

C066009

(Super. Ct. No.
CRF-08-825)

ORDER MODIFYING OPINION
AND DENYING PETITION
FOR REHEARING

[NO CHANGE IN JUDGMENT]

THE PEOPLE,

Plaintiff and Appellant,

v.

JESSE ISAIAS SANTANA et al.,

Defendants and Respondents.

C066219

(Super. Ct. No.
CRF-08-825)

THE PEOPLE,

Petitioner,

v.

THE SUPERIOR COURT OF YUBA COUNTY,

Respondent;

JESSE ISAIAS SANTANA et al.,

Real Parties in Interest.

C066447

(Super. Ct. No.
CRF-08-825)

THE COURT:

It is ordered that the opinion filed herein on May 16, 2012, be modified as follows:

At the end of the first sentence of the last paragraph at the bottom of page 30 and continuing over to page 31, which reads, "It is sufficient for us to conclude that Judge Scrogin was unauthorized to convene the grand jury that indicted defendant Santana, which nullifies its action against him." add as footnote 21 the following footnote, which will require renumbering of all subsequent footnotes:

21 In a petition for rehearing, defendant Vasquez asserts he also is entitled to have the indictment set aside in its entirety as to him as a function of the self-recusal of Judge Scrogin with respect to defendant Santana. Defendant Vasquez cites the yet-unquestioned principle that for purposes of the *disqualification statute*, a judge is subsequently disqualified from the proceeding in its entirety and as to all parties regardless of any showing of bias against the other parties. (*People v. Bridges* (1982) 132 Cal.App.3d 234, 238.) However, the statutory scope of a judge's disqualification from subsequent proceedings is not determinative of the jurisdiction with which Judge Scrogin acted in convening the grand jury. Defendant Vasquez might have received the same subsequent disqualification benefit to the extent he was a party with defendant Santana in the same matter, but only as a matter of statute. (See Code Civ. Proc., § 170 et seq.) And, in any event, neither defendant sought nor had the opportunity to seek the disqualification of Judge Scrogin from convening the grand jury. The facts giving rise to Judge Scrogin's disqualification related *solely* to defendant Santana, and hence the judge lacked jurisdiction to act only as to defendant Santana. Defendant Vasquez does not provide any authority why Judge Scrogin lacked *jurisdiction* to proceed against *him* even if her acts in connection with defendant Santana were void, nor do we perceive any illogic in this result. We consequently deny defendant Vasquez's petition for rehearing.

In light of this modification, which does not change the judgment, the petition for rehearing by defendant Vasquez is denied.

BY THE COURT:

BLEASE, Acting P. J.

HULL, J.

BUTZ, J.