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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Petitioner,

v.

SUPERIOR COURT OF  
RIVERSIDE COUNTY,

Respondent;

RICHARD SURUY,

Real Party in Interest.

E055762

(Super.Ct.No. BAF11000248)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. Helios (Joe)

Hernandez, Judge. Petition granted.

Paul Zellerbach, District Attorney, and Alan D. Tate, Deputy District Attorney, for  
Petitioner.

No appearance for Respondent.

David E. Wohl for Real Party in Interest.

In this matter, we have reviewed the petition and the opposition filed by real party in interest. We have determined that resolution of the matter involves the application of settled principles of law, and that issuance of a peremptory writ in the first instance is therefore appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

Penal Code section 995a, subdivision (b), authorizes the trial court to remand a matter to the magistrate for the correction of “minor errors of omission” if it can be “expeditiously cured or corrected without a rehearing of a substantial portion of the evidence.” In our view, the omission here—the identification of defendant as the perpetrator shown in the video—should be so characterized. Although it is true that this identification goes to the heart of the People’s case, this is not dispositive. (See *Caple v. Superior Court* (1987) 195 Cal.App.3d 594.) If the testifying officer had used the word “defendant” instead of “suspect” when describing the video, the People’s case would have been complete. A single question on remand will be sufficient to correct the omission. (Cf. *Garcia v. Superior Court* (2009) 177 Cal.App.4th 803.)

#### DISPOSITION

Accordingly, the petition for writ of mandate is granted. Let a peremptory writ of mandate issue, directing the superior court to vacate its order granting defendant’s motion to set aside counts seven through 12, to vacate its order denying the People’s motion to remand under Penal Code section 995a, and to issue a new order granting the latter motion. Defendant’s motion may be reconsidered following the completion of the proceedings upon remand.

Petitioner is directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties.

The previously ordered stay is hereby dissolved.

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McKINSTER  
J.

We concur:

HOLLENHORST  
Acting P. J.

CODRINGTON  
J.