

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

VINCENT PETER HOFSCHEIER,

Defendant and Appellant.

H026217

(Santa Cruz County
Super. Ct. No.)

ORDER MODIFYING DISSENTING
OPINION

[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the dissenting opinion filed herein on April 1, 2004, be modified as follows:

1. On page 10, second full paragraph, beginning “The majority here” is deleted and the following paragraph is inserted in its place:

The majority here notes that “this issue has now reached this court three times.” (Maj. opn., p. 6.) As explained above, the majority opinion in *Jones, supra*, 101 Cal.App.4th 220 upheld section 290 against the same arguments defendant presents here. The California Supreme Court denied review of *Jones* on October 30, 2002.¹ This same panel had considered the issue in an earlier opinion. (See *Jones, supra*, 101 Cal.App.4th at p. 225 & fn. 4.) I continue to adhere to the views expressed in the majority opinion in *Jones*.

¹ Justices Kennard and Moreno voted to grant the petition for review.

This modification does not effect a change in the judgment.

BAMATTRE-MANOUKIAN, J.