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IN THE SUPREME COURT OF CALIFORNIA

THE PEOPLE,
Plaintiff and Respondent,
v.
ROBERT WALTER SCULLY,
Defendant and Appellant.

S062259

Sonoma County Superior Court
SCR-22969

ORDER MODIFYING OPINION AND DENYING PETITION FOR REHEARING

THE COURT:

The majority opinion in this case, filed on May 24, 2021, and appearing at 11 Cal.5th 542, is modified as follows:

1. On page 565, in the third sentence of the third full paragraph, the phrase "68 newspaper articles" is replaced with "more than 100 newspaper articles," so that the sentence begins:

> Based on its review of the more than 100 newspaper articles submitted . . . .

2. On page 568, in the second sentence of the second full paragraph, the phrase "68 newspaper articles" is replaced with "more than 100 newspaper articles," so that the sentence begins:

> In the case below, the trial court considered the more than 100 newspaper articles submitted . . . .

3. On page 569, in the first sentence of the first paragraph, the phrase "68 newspaper articles" is replaced with "more than 100 newspaper articles," so that the sentence begins:

> We have reviewed the more than 100 newspaper articles attached . . . .

4. On page 569, in the second sentence of the second paragraph, the phrase "less than half the number of articles" is replaced with "fewer articles than," so that the sentence begins:

> Defendant submitted fewer articles than were presented in *Odle* . . . .

5. On page 570, in the first full paragraph, the second, third, and fourth sentences currently read: "There are approximately 10 articles, published over the course of nearly 18 months, that mention defendant's alleged affiliation with the Aryan Brotherhood or white supremacist group. Most were published within the first three weeks following Deputy Trejo's killing. The articles made only passing reference to defendant's Aryan Brotherhood connection, which was largely described as 'alleged' or 'reputed.' " These sentences are replaced with the following:

> There are approximately 13 articles, published over the course of around 14 months, that mention defendant's alleged affiliation with the Aryan Brotherhood or a white supremacist group. Most were published many months before jury selection began. Many of the articles made only passing reference to defendant's Aryan Brotherhood connection, which was largely described as "alleged" or "reputed."

6. On page 571, in the first full paragraph, the second, third, fourth, and fifth sentences currently read: "Defendant's trial began more than a year and a half after the initial pretrial publicity period had subsided. Approximately half of the articles submitted by defendant were published within the first month after the offense, and the vast majority of articles were published within the initial five months of the offense. Thereafter, coverage

was sporadic. Of those that were published after the five-month mark, which was still one year before jurors were summoned, all but two articles contained factual updates about pretrial proceedings." These sentences are replaced with the following:

> Defendant's trial began about a year and a half after the offense. Nearly half of the articles submitted by defendant were published within the first month after the offense, and approximately 75 percent were published in the first six months, a year or more before jury selection began. No articles published in the three months immediately preceding trial were submitted in the supporting exhibits.

This modification does not affect the judgment.

The petition for rehearing is denied.