Filed 9/1/21

IN THE SUPREME COURT OF CALIFORNIA

In re JACK WAYNE FRIEND
on Habeas Corpus.

S256914

First Appellate District, Division Three
A155955

Alameda County Superior Court
81254A

ORDER MODIFYING OPINION

THE COURT:

The majority opinion in this case, filed on June 28, 2021, and appearing at 11 Cal.5th 720, is modified as follows:

On page 743, in the first sentence of the second full paragraph, the phrase "the statute" is replaced with "section 1509(d)," so that the sentence reads:

> Applying these principles, we conclude that when section 1509(d) is applied to a post-Proposition 66 petition subsequent to an initial pre-Proposition 66, post-*Clark* petition, section 1509(d) is not operating retroactively.

On page 743, in the third sentence of the second full paragraph, the phrase "This provision of" is added at the beginning of the sentence, so that the sentence begins:

> This provision of Proposition 66 underscores the importance of presenting available claims in the first petition . . . .

This modification does not affect the judgment.