

COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

JANE DOE,

Defendant and Appellant.

3 Crim. C00000

Sacramento County  
Superior Court  
No. 0000000

**MOTION TO RECALL THE REMITTITUR**

TO THE HONORABLE ARTHUR G. SCOTLAND, PRESIDING  
JUSTICE, AND TO THE ASSOCIATE JUSTICES OF THE COURT OF  
APPEAL:

Appellant/petitioner, Jane Doe, respectfully moves this court for an  
order recalling the remittitur and permitting her to reinstate her appeal in  
this case.

This motion is based upon the following points and authorities and  
the attached declarations.

Dated:

Respectfully submitted,

[YOUR NAME]

Address / telephone  
Attorney for Appellant

POINTS AND AUTHORITIES IN SUPPORT OF MOTION  
TO RECALL REMITTITUR

Following the order and judgment entered on [DATE], in [COUNTY] County No. ##, appellant filed a notice of appeal on [DATE].

[DESCRIBE DETAILS OF ISSUANCE OF REMITTITUR THAT SHOULD NOW BE SET ASIDE e.g., Included with the notice of appeal, appellant submitted an Application for Appointment of Counsel for the Third District Court of Appeal. On June 26, 1990, appellant received correspondence from the Central California Appellate Program advising her that the application submitted was invalid in that she had failed to include any income or expense information even though she was not incarcerated. (See Exhibit A, attached hereto.) On June 28, 1990, appellant mailed another application to the program. Appellant received a letter dated July 2, 1990, that advised her that this application also was invalid because the form was not completely filled out. (See Exhibit B, attached hereto.) Appellant contends that she immediately filled out the new application and mailed it to the program. (See Exhibit C, attached hereto.)

During this period of time, appellant was taking a medication, Dilantin, prescribed by her physician, Dr. Porter, of the Primary Care Center. Appellant suffers from seizures occurring two or three times a week and is currently taking Phenobarbital prescribed by her physician.

(See Exhibit C.)

Appellant maintains that she believed her application for appointment of counsel was in the mail and that she would soon be hearing from her appointed attorney. (See Exhibit C.)

On September 13, 1990, appellant was informed by the Central California Appellate Program that the record on appeal was being returned to her because her appeal had been dismissed. (See Exhibit C.)

Appellant immediately telephoned the Central California Appellate Program to ask for assistance in reinstating her appeal.

Appellant, a layperson of the law, should not be penalized for being ignorant of appellate procedures. (*People v. Davis* (1965) 62 Cal.2d 806.) Moreover, the court must consider appellant's state of health and the bewilderment she must have felt in attempting to provide the court with a proper application. Appellant sincerely believed that she had proceeded properly and that she had legal representation on appeal. (*People v. Hickok* (1949) 92 Cal.App.2d 539.)]

Appellant respectfully requests this court to consider her application in light of the standards announced in *People v. Ribero* (1971) 4 Cal.3d 55, 65, that the power of appellate courts to grant relief from default ". . . is to be liberally construed to protect the right to appeal."

Dated:

Respectfully submitted,

[YOUR NAME]  
Address / telephone  
Attorney for Appellant