

Expansion of Appointment Request to File Habeas in Superior Court

YOUR NAME

SBN

YOUR ADDRESS

YOUR TELEPHONE NUMBER

Attorney for Appellant [NAME OF APPELLANT]

COURT OF APPEAL OF THE STATE OF CALIFORNIA
[THIRD OR FIFTH] APPELLATE DISTRICT

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

[NAME OF APPELLANT]

Defendant and Appellant.

)
) X Crim. appeal no.
)
) (Name County
) Superior Court
) No.)
)
)
)
)
)
)

APPLICATION TO EXPAND APPOINTMENT OF APPELLATE COUNSEL TO INCLUDE PREPARATION AND FILING OF PETITION FOR WRIT OF HABEAS CORPUS; DECLARATION OF APPELLATE COUNSEL, COPY¹ OF DECLARATION OF APPELLANT AND [ADDITIONAL DECLARANT'S NAME] IN SUPPORT THEREOF; [AND REQUEST TO FILE THIS PLEADING UNDER SEAL [Caution: Court does not have to seal.]

Defendant/appellant, [APPELLANT'S NAME], hereby applies for an order expanding the appointment of appellate counsel to include assisting in preparation and filing of a petition for writ of habeas corpus in the Superior Court of [NAME] County in propria persona. This expansion is sought on the ground that [describe reason for writ, i.e., IAC].

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The original declarations will be submitted if the application is granted.

A. Procedural History [*BRIEFLY RECITE PROCEDURAL HISTORY OF CASE.*]

B. Facts Supporting Necessity of Writ [*RECITE FACTS IN SUPPORT OF WRIT, i.e., ineffective assistance of counsel.*]

C. Applicable Law

[Describe applicable law, i.e., reversal of a conviction on the basis of ineffective assistance of counsel requires defendant to show that counsel's representation fell below an objective standard of reasonableness, and that a reasonable probability exists that a more favorable determination would have resulted absent counsel's error or omission. (*Stickland v. Washington* (1984) 466 U.S. 668, 687, 692 [80 L.Ed.2d 674, 693, 696]; *People v. Duncan* (1991) 53 Cal.3d 955, 966; *People v. Ledesma* (1987) 43 Cal.3d 171, 216-217.)]

[*Additionally, describe any law relating to the particular facts of your case.*]

Appellant asserts that the [describe reason for writ, i.e., ineffective representation] resulted in prejudice as follows:

[*Describe prejudice*]

Attachment 1: **ATTORNEY DECLARATION**

1. I, [YOUR NAME], was appointed by this court to represent appellant on his appeal following [e.g., a guilty plea to *DESCRIBE CONVICTION*].

2. In discussions during preparation of the appeal, [APPELLANT'S NAME AND ADDITIONAL DECLARANT'S NAME] told me that [*summarize substance of*

declarations].

3. I spoke by telephone with the trial attorney, [*name of trial attorney, date of discussion,*] about the allegations. *Describe trial attorney's response. If you have a declaration from the trial attorney, include a copy with this application to expand appointment.]*

4. I request an order expanding my appointment to include assisting [APPELLANT'S NAME] in preparation of a petition for a Writ of Habeas Corpus in the Superior Court of [NAME] County [and that this request be placed under seal.

Caution: you must stay reasons why the Court of Appeal should seal this application and they can deny sealing it].

I declare under penalty of perjury the forgoing is true and correct and this declaration was signed on [DATE], at [CITY], California.

Respectfully submitted,

[YOUR NAME]

Attorney for Appellant [NAME]

Attachment 2 to application: **DECLARATION OF APPELLANT [NAME]**

I, [NAME OF APPELLANT], declare:

I believe that [NAME OF TRIAL ATTORNEY], the attorney appointed to represent me in criminal proceedings against me for [DESCRIBE CONVICTION] [provided ineffective assistance of counsel for the following reasons:

1. *DESCRIBE/LIST HOW APPELLANT PERCEIVED INEFFECTIVENESS]*

For these reasons, I believe I received ineffective assistance of counsel.

[Describe prejudice e.g., had I known I would not have entered the plea agreement because [SPECIFY REASONS]].

I declare under penalty of perjury the foregoing is true and correct and that this declaration was signed in _____ County on [DATE].

APPELLANT'S NAME

Attachment 3 to application: **DECLARATION OF [OTHER DECLARANT]**

I, [NAME OF DECLARANT], declare:

[DESCRIBE RELATIONSHIP TO APPELLANT, INFORMATION IN SUPPORT OF ALLEGATIONS OF INEFFECTIVE ASSISTANCE.]

I declare under penalty of perjury the foregoing is true and correct and that this declaration was signed in _____ County on [DATE].

[OTHER DECLARANT'S NAME]
