

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE FIFTH APPELLATE DISTRICT

IN RE JOHN D., a Person Coming)	
Under the Juvenile Court Law.)	
_____)	
PEOPLE OF THE)	
STATE OF CALIFORNIA)	
Plaintiff and Respondent,)	No. F000000
)	
v.)	[Name] County
)	No.
JOHN D.,)	
)	
Appellant.)	
_____)	

REQUEST TO STRIKE APPELLANT'S OPENING BRIEF AND
SUBSTITUTE A BRIEF PURSUANT TO *PEOPLE v. WENDE* (1979) 25
CAL.3D 436.

Appellant respectfully moves this court for an order striking the opening brief and permitting the substitution of a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, for the following reasons.

[STATE BACKGROUND AND GROUNDS FOR WITHDRAWING AN ISSUE BRIEF AND SUBSTITUTING A *WENDE* BRIEF e.g., In the opening brief appellant raised one issue, that the trial court failed to declare the offense, a violation of Penal Code section 245, to be a felony or a misdemeanor, as required by *In re Manzy W.* (1997) 14 Cal.4th 1199, 1204.

On February 8, 2002, the juvenile court, sua sponte, held a hearing, after reading appellant's opening brief, and declared the offense to be a felony. (Supp. Record, p. XX)] Based on that order, counsel abandons appellant's sole contention raised in the opening brief.

The abandonment of the sole contention places appellant in an equivalent situation to that set forth in *People v. Wende, supra*, 25 Cal.3d at p. 436, and counsel requests leave to file that brief at the present time to permit appellant to receive full review of the record by this court.

Dated:

Respectfully Submitted,

[YOUR NAME]
State Bar No.
Address / telephone #
Attorney for Appellant

IT IS SO ORDERED:

Presiding Justice