

Request for Summary Reversal Base on Concession by AG and Time is of the Essence

YOUR NAME
Attorney at Law & SBN
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COURT OF APPEAL OF THE STATE OF CALIFORNIA

[THIRD/FIFTH] APPELLATE DISTRICT

PEOPLE OF THE STATE OF CALIFORNIA,)	
)	[3/5] Crim. [APPEAL
NO.]		
Plaintiff and Respondent,)	
)	[[County]
)	Superior Court
)	No. [county no.]
v.)	
)	
APPELLANT’S NAME,)	
)	
Defendant and Appellant.)	

**MOTION FOR SUMMARY REVERSAL BASED ON
CONCESSION OF ISSUE AND TIME IS OF THE ESSENCE**

TO THE PRESIDING JUSTICE OF THE [THIRD/FIFTH] DISTRICT
COURT OF APPEAL:

Appellant [NAME APPELLANT] applies through his counsel for a summary reversal of his conviction pursuant to the authority noted in *People v. Browning* (1978) 70 Cal.App.3d 320. This motion is based on the accompanying declaration of appellate counsel.

Dated: [DATE] at [City], California.

Respectfully submitted,
[YOUR NAME, SBN]
ATTORNEY AT LAW
Attorney for Appellant [NAME]

YOUR NAME
Attorney at Law
YOUR ADDRESS
YOUR ADDRESS
Telephone
Attorney for Appellant

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

PEOPLE OF THE STATE OF CALIFORNIA,)	
)	[3/5] Crim. [APPEAL NO.]
Plaintiff and Respondent,)	
)	([County]
v.)	Superior Court
)	No. [county no.]
APPELLANT'S NAME,)	
)	
Defendant and Appellant.)	
_____	/	

DECLARATION OF [NAME OF APPELATE COUNSEL]

[YOUR NAME] declares under penalty of perjury:

1. I have been appointed to represent appellant, [NAME APPELLANT] on appeal from a judgment of conviction and a state prison sentence of [TERM] years in state prison.
2. On [DATE] I filed Appellant's Opening Brief, which requested that appellant's conviction be reversed and remanded to allow appellant an opportunity to withdraw his guilty plea.
3. The sole issue raised on appeal was that appellant entered a plea based

on a plea bargain, and when the trial court declined to enforce the terms of the plea bargain, it should have given appellant an opportunity to withdraw his plea. Where a defendant enters into a plea bargain, but then fails to appear at a sentencing hearing, he must be allowed to withdraw his guilty plea if the court refuses to adhere to the original bargain. (*People v. Rodriguez* (1987) 191 Cal.App.3d 180; *People v. Cruz* (1988) 44 Cal.3d 1247.)

4. On June 15, 1993, attorney for respondent filed a Respondent's Brief, which conceded that the trial court should have allowed appellant to withdraw his guilty plea, and also requested that this court reverse appellant's conviction and remand to the trial court to allow appellant to withdraw his guilty plea.

5. Appellant was sentenced to [TERM] years in state prison, less [#] days for time served, on [DATE]. If his appeal follows the usual procedures, appellant will have served his entire term and will not receive the relief requested. For these reasons, a summary reversal is appropriate in this case.

Executed on this [DATE] at [PLACE].

Respectfully submitted,

[YOUR NAME, SBN]
ATTORNEY AT LAW
Attorney for Appellant [NAME]