

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION _____**

THE PEOPLE OF THE STATE OF
CALIFORNIA,
Plaintiff and Respondent,

vs.

Defendant and Appellant.

Court of Appeal
No.

Superior Court
No.

APPEAL FROM THE SUPERIOR COURT OF

_____ COUNTY

Honorable _____, Judge

APPELLANT'S OPENING BRIEF

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Under the Appellate Defenders, Inc.
Independent (or Assisted) Case System

(See ADI Manual, Chapter 5, Briefing, §5.3.)

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(Rule 8.204(a)(1)(A) of the California Rules of Court.
See ADI Manual, Chapter 5, Briefing, §§5.4 - 5.5.)

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APPELLANT’S OPENING BRIEF

STATEMENT OF APPEALABILITY

(Rule 8.204(a)(2)(B) of the California Rules of Court requires the opening brief to “state that the judgment appealed from is final, or explain why the order appealed from is appealable.” See ADI Manual, Chapter 5, Briefing, §5.8 et seq.)

STATEMENT OF CASE

(Rule 8.204(a)(2)(A) of the California Rules of Court requires the brief to “State the nature of the action, the relief sought in the trial court, and the judgment or order appealed from.” Rule 8.204(a)(1)(C) instructs: “Support any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears.” This applies to all sections of the brief. See ADI Manual, Chapter 5, Briefing, §5.15.)

STATEMENT OF FACTS

(Rule 8.204(a)(2)(C) of the California Rules of Court states that the opening brief must include “a summary of the significant facts limited to matters in the record.” See ADI Manual, Chapter 5, Briefing, §5.16.)

ARGUMENT

(See ADI Manual, Chapter 5, Briefing, §§5.24 - 5.45.)

I.

Argument Heading

(Pursuant to Rule 8.204(a)(1)(B) of the California Rules of Court, a brief must “[s]tate each point under a separate heading or subheading summarizing the point. . . .” See ADI Manual, Chapter 5, Briefing, §5.24.)

A. Introduction.

(See ADI Manual, Chapter 5, Briefing, §5.25: “The appellate court wants to know up front what the trial court allegedly did wrong, what legal theory supports that allegation, and what conclusion to draw from the errors.” See also ADI Manual, Chapter 5, Briefing, §5.26.)

B. Address Any Potential Question of Waiver or Forfeiture.

(See ADI Manual, Chapter 5, Briefing, §5.27.)

C. Identify the Standard of Review.

(See ADI Manual, Chapter 5, Briefing, §5.28.)

D. Legal Argument.

(Rule 8.204(a)(1)(B) of the California Rules of Court, states “. . . support each point by argument and, if possible, by citation of authority.” See ADI Manual, Chapter 5, Briefing, §5.33: “As all experienced appellate lawyers recognize, good advocacy requires more than ‘some’ argument and ‘some’ citation of authority, even though that may satisfy the minimum requirements of the rules. The ultimate goal is to support each argument with the skillful use of legal reasoning and authority and to structure it so that it is logical, clear, concise, and persuasive.”)

1. Legal Analysis Establishing the Error.

(See ADI Manual, Chapter 5, Briefing, §§5.33 - 5.38.)

2. Federalize the Issue If Applicable.

(See ADI Manual, Chapter 5, Briefing, §§5.42 - 5.45.)

3. Identify the Prejudice Standard and Apply.

(See ADI Manual, Chapter 5, Briefing, §§5.39 - 5.41.)

CONCLUSION

(See ADI Manual, Chapter 5, Briefing, §5.46.)

For all of the above reasons, the requested relief should be granted.

Respectfully Submitted,

Dated:

Attorney for Appellant and Defendant

CERTIFICATION OF WORD COUNT

Appellate counsel certifies in accordance with California Rules of Court, rule 8.204(c) that this brief contains _____ words as calculated by the WordPerfect software in which it was written.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at _____, California.

Dated:

Attorney

ATTACHMENTS

(Rule 8.204(d) of the California Rules of Court states that “A party filing a brief may attach copies of exhibits or other materials in the appellate record or copies of relevant local, state, or federal regulations or rules, out-of-state statutes, or other similar citable materials that are not readily accessible.” See ADI Manual, Chapter 5, Briefing, §5.47.)

ATTACH THE PROOF OF SERVICE