

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

**MOTION TO ABATE THE ACTION
UPON DEATH OF APPELLANT**

Attorney Name
State Bar No.
address
phone number

Attorney for Defendant and
Appellant

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**MOTION TO ABATE THE ACTION
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TO THE HONORABLE _____, PRESIDING JUSTICE,
AND TO
THE HONORABLE ASSOCIATE JUSTICES OF THE COURT OF
APPEAL OF THE STATE OF CALIFORNIA, FOURTH APPELLATE
DISTRICT, DIVISION _____:

A judgment of conviction was imposed against defendant and
appellant, _____, in _____ County Superior Court case
number _____.

On _____, appellant filed a notice of appeal, and the appeal is pending before this court.

On _____, appellant died. A certified copy of a certificate of death is attached.

The death of a defendant while appellate review of his sentence is pending abates the appeal and all proceedings in the prosecution from its inception. (*People v. Dail* (1943) 22 Cal.2d 642, 659-660.; *People v. Smith* (1994) 21 Cal.App.4th 942, 951.)

Accordingly, counsel for appellant requests that this court dismiss the appeal, vacate the judgment of conviction, and remand the case to the trial court with directions to dismiss the information/indictment.

Dated: _____

Respectfully submitted,

Attorney for Defendant
and Appellant

ATTACH PROOF OF SERVICE