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SUPREME COURT NO.

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

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

PETITION FOR REVIEW TO EXHAUST STATE REMEDIES
(Cal. Rules of Court, rule 8.508)

**AFTER THE (PUBLISHED/UNPUBLISHED) DECISION OF THE
COURT OF APPEAL, FOURTH APPELLATE DISTRICT, DIVISION
_____, AFFIRMING THE JUDGMENT OF CONVICTION.**

Your name

Your address

Your phone number

(If filed by an attorney, add this:)

Attorney for Petitioner ____

State Bar No. ____

Under the Appellate Defenders, Inc.

Independent (or Assisted) Case System

*Under Cal. Rules of Court, rule 8.504(b)(6), "the title of the case and designation of the parties on the cover of the petition must be identical to the title and designation in the Court of Appeal opinion or order that is the subject of the petition." **Note:** The words "Petition for Review To Exhaust State Remedies" on the cover are required by rule 8.508(b)(1).*

TOPICAL INDEX

*See ADI Criminal Appellate Practice Manual, Chapter 5, § 5.5.
(<http://www.adi-sandiego.com/manual.html> or hard copy.)*

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on which each topic begins.*

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***Note:** This index is required by rules 8.508(b)(2) and 8.204(a)(1)(A) of the California Rules of Court. See ADI Criminal Appellate Practice Manual, Chapter 5, § 5.5. (<http://www.adi-sandiego.com/manual.html> or hard copy.)*

TABLE OF AUTHORITIES

List cases, constitutions, statutes, rules, instructions, and other authorities cited in the petition. See ADI Criminal Appellate Practice Manual, Chapter 5, § 5.6. (<http://www.adi-sandiego.com/manual.html> or hard copy.)

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***Note:** This table is required by rules 8.508(b)(2) and 8.204(a)(1)(A) of the California Rules of Court.*

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Plaintiff and Respondent,

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No.

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APPEAL FROM THE SUPERIOR COURT OF

_____ COUNTY

Honorable _____, Judge

**PETITION FOR REVIEW TO EXHAUST STATE REMEDIES
(Cal. Rules of Court, rule 8.508)**

**AFTER THE (PUBLISHED/UNPUBLISHED) DECISION
OF THE COURT OF APPEAL, FOURTH APPELLATE
DISTRICT, DIVISION _____, AFFIRMING THE
JUDGMENT OF CONVICTION.**

TO THE HONORABLE CHIEF JUSTICE _____ AND
TO THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME
COURT OF THE STATE OF CALIFORNIA:

This petition for review follows the (published/unpublished)
decision of the Court of Appeal, Fourth Appellate District, Division
_____, filed on _____ (date). A copy of the opinion is attached to
this petition as an appendix. The petition is under rule 8.508 of the

California Rules of Court. It presents no grounds for review under rule 8.500(b) and is filed solely to exhaust state remedies for purposes of federal habeas corpus.

Important: *The last sentence in the paragraph above is required by rule 8.508(b)(3)(A), California Rules of Court.*

General guidance on petition for review: *See California Rules of Court, rules 8.204, 8.504, and 8.508, for form and content of petition and other requirements. See also ADI Manual, Chapter 7, §§ 7.46 - 7.82. (<http://www.adi-sandiego.com/manual.html> or hard copy.)*

STATEMENT OF CASE AND FACTS

Function: *While a statement of case and facts is not required in the petition for review, it is conventional to include it because the statements generally would aid the court in understanding the context of the issue. See ADI Manual, Chapter 7, § 7.64. (<http://www.adi-sandiego.com/manual.html> or hard copy.) California Rules of Court, rule 8.508(b)(3)(C), requires “a brief statement of the factual and legal bases of the claim.”*

Content: *You can use the statement of case and facts from the appellant’s opening brief. Or, if the statement in the Court of Appeal opinion is adequate, you can adopt it by stating: “Petitioner adopts the statement presented in the Court of Appeal’s decision for purpose of this petition.” Cite to the opinion pages as: Appendix, pages __ to __.*

Petition for rehearing: *Under California Rules of Court, rule 8.504(b)(3), “if a petition for rehearing could have been filed in the Court of Appeal, the petition for review must state whether it was filed and, if so, how the court ruled.” (Emphasis added.)*

ARGUMENT

I.

TYPES OF ARGUMENTS: *The purpose of a petition for review to exhaust state remedies is solely to preserve issues for later federal review. Only federal issues should be included in it. **Important:** If you have other issues than federal ones or believe any issue should actually be reviewed by the Supreme Court, file a regular petition for review under rule 8.504 of the California Rules of Court and include both state and federal issues in it. A regular petition will also exhaust state remedies. ADI has a form for a regular petition under “Petition for Review Template” at http://www.adi-sandiego.com/practice_forms_motion.html*

ARGUMENT HEADING(S): *Argue each issue listed in your “Issues Presented” section separately, with a one-sentence heading at the beginning, as in the briefs. The heading should summarize your position. If you have more than one argument, then label each as Argument I, II, and so forth. You can use or modify the argument headings from your briefs.*

Note: *Be sure to mention the federal nature of your arguments in the heading. For example: “The Confession Was Obtained in Violation of Miranda and the Fifth Amendment Because the Officers Continued Questioning After Defendant Had Unequivocally Invoked the Right To Remain Silent.”*

TEXT OF ARGUMENTS: *California Rules of Court, rule 8.508(b)(3)(C), requires “a brief statement of the factual and legal bases of the claim.” After each heading, give a short legal argument in support of the position taken. You may use the arguments in your briefs as a guide. You may also discuss any points made in the Court of Appeal opinion.*

Purpose: *Your goal is to make sure your federal issues are clearly and completely presented to the California Supreme Court, so that you will satisfy federal “exhaustion” requirements. See ADI Manual, Chapter 9, §§ 9.71 - 9.75. (<http://www.adi-sandiego.com/manual.html> or hard copy.) For each issue, be sure to:*

(a) *set out the facts in your case that constituted a federal constitutional violation,*

(b) *point to the specific part of the United States Constitution (such as the Fifth Amendment right against self-incrimination) and the particular federal constitutional theory (such as the right not to be interrogated after invoking the right to remain silent) on which the claim is based, and*

(c) *mention federal authorities (especially decisions of the United States Supreme Court, such as Miranda v. Arizona) related to the claim.*

CONCLUSION

For the reasons stated, the petition for review should be granted.

Dated:

Respectfully Submitted,

(Attorney for) Petitioner and Defendant

CERTIFICATION OF WORD COUNT

I certify in accordance with California Rules of Court, rule 8.504(d) that this brief contains _____ words as calculated by the *(specify, for example, Microsoft Word, Word Perfect)* 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.

Dated:

(Signature of attorney or party filing petition)

Limit: *A petition for review is limited to 8,400 words or 30 pages if typewritten. You do not include in the count the cover information, topical index, table of authorities, certification of word count, signature block, or required attachments such as the opinion of the Court of Appeal. (Cal. Rules of Court, rule 8.504(d), 8.508(b)(2).) You may submit an application to the Chief Justice showing good cause to permit a longer petition. (Rule 8.504(d)(4).)*

APPENDIX

Opinion of Court of Appeal

Important: *Rule 8.504(b)(4) of the California Rules of Court requires the opinion of the Court of Appeal to be attached. If the petition is seeking review of an order of the Court of Appeal, a copy of the order must be attached instead. (Rules 8.504(b)(5), 8.508(b)(2).)*

PROOF OF SERVICE

Form: See proof of service forms at
http://www.adi-sandiego.com/PDFs/proof_of_service.wpd and
<http://www.courtinfo.ca.gov/forms/fillable/app009.pdf>.

Who is to be sent a copy of the petition for review: A chart of those persons and entities that have to be served with a copy of the petition is at
[http://www.adi-sandiego.com/FILING AND SERVICE SUMMARY eff 1-1-2011.pdf](http://www.adi-sandiego.com/FILING_AND_SERVICE_SUMMARY_eff_1-1-2011.pdf) at pages 3 and 4-5.

Filing copies in Supreme Court: An original and 8 copies of the petition, with proof of service attached, must be filed in the Supreme Court. (Cal. Rules of Court, rule 8.44(a)(4).)