

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

| | | |
|---|---|-----------------------|
| THE PEOPLE OF THE STATE OF CALIFORNIA, |) | |
| |) | |
| Plaintiff and Respondent, |) | F0xxxxx |
| |) | |
| v. |) | [COUNTY] |
| |) | Superior Court |
| JOHN DOE, |) | No. XXX |
| |) | |
| Defendant and Appellant. |) | |

**APPLICATION FOR AN ORDER CONCERNING
THE APPEALABILITY OF THIS CASE; and
REQUEST FOR EXTENSION OF TIME**

**TO THE HONORABLE JAMES A. ARDAIZ, PRESIDING JUSTICE,
AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE
COURT OF APPEAL, FIFTH APPELLATE DISTRICT:**

APPLICATION FOR ORDER CONCERNING APPEALABILITY

Appellant, through appointed counsel, respectfully requests an order concerning the appealability of this case. This application is based upon the fact that appellant was convicted by plea in 1996, and that a motion for modification of the sentence and request for appointment of counsel, filed November 24, 2003, was denied by the trial court. Appellant filed a notice of appeal and the trial court prepared and submitted a clerk's transcript on appeal.

PROCEDURAL HISTORY

[General facts omitted]

On January 9, 2004, appellant filed a notice of appeal. (1 CT 20.)

CONCLUSION

In light of counsel's duty to set forth in the opening brief an explanation of why the order appealed from is appealable (Cal. Rules of Court, rule 8.204(a)(2)(B)), appellant's counsel respectfully requests some guidance from the court on this issue.

REQUEST FOR EXTENSION OF TIME

In the event this court concludes appellant's appeal is operable, counsel would request a 30-day extension of time within which to communicate further with appellant before filing the opening brief on her behalf.

DATED: _____

Respectfully submitted,

ATTORNEY - SB# XXXXX
Attorney for Appellant