

Phone# _____

Attorney for Appellant

COURT OF APPEAL OF THE STATE OF CALIFORNIA
_____ APPELLATE DISTRICT

PEOPLE OF THE STATE OF
CALIFORNIA,

_____ Plaintiff and Respondent,

V.

_____ Defendant and Appellant.

_____ Crim. No. _____

_____ County

_____ Superior Court No.

MOTION TO ABATE PROCEEDINGS; SUPPORTING DECLARATION AND
EXHIBIT TO THE HONORABLE _____, PRESIDING
JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE COURT
OF APPEAL OF THE STATE OF CALIFORNIA, _____ APPELLATE
DISTRICT:

I, _____, am appointed to represent appellant _____ in the
above-referenced appeal. Appellant, through appointed attorney, hereby applies to
have all proceedings in this case abated on the ground that appellant is deceased.

When a party dies while an appeal is pending from conviction, the cause should be
permanently abated and dismissed. The superior court should be directed to enter its
order to that effect. (See *In re Jackson*(1985) 39 Cal.3d 464, 480, citing *People v.*
Dail (1943) 22 Cal.2d 642, 659; *People v. de St. Maurice* (1913)166 Cal. 201, 202.)

Since appellant has died before a decision of this court is final, the case should be
permanently abated and the appeal dismissed.

DECLARATION OF APPELLATE COUNSEL

I, _____, declare under penalty of perjury as follows:

1. I was appointed represent appellant on appeal from a conviction on _____.
2. On _____, I learned that appellant is deceased.
3. On _____, I contacted prison officials at _____, to obtain information concerning appellant, and was informed that appellant died on _____ at _____, California.
4. On _____, I contacted the Recorder's Office of the County of ___[County where died]___, and requested a certified copy of appellant's death certificate, which is appended here as Exhibit A.

CONCLUSION

Because appellant has died during the pendency of this appeal, it is respectfully requested that this court dismiss the instant appeal, vacate the judgment of the superior court, and remand the case to the superior court with directions to abate all proceedings upon the judgment which are the subject of this appeal.

Dated: _____

Respectfully submitted,

Attorney for Appellant /Defendant

State Bar # _____

Phone# _____