

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

JOHN DOE,

Defendant and Appellant.

5 Crim. F00000

[Name] County  
Superior Court  
No. 00000

**APPLICATION TO EXPAND APPOINTMENT TO  
INCLUDE  
THE PREPARATION AND FILING OF A PETITION FOR  
WRIT OF HABEAS CORPUS  
TO THE HONORABLE JAMES ARDAIZ, PRESIDING JUSTICE, AND  
THE HONORABLE ASSOCIATE JUSTICES OF THE CALIFORNIA  
COURT OF APPEAL, FIFTH APPELLATE DISTRICT:**

Appellant [John Doe] hereby applies to this court for an expansion of his appellate counsel's appointment to include the preparation and filing of a petition for writ of habeas corpus in this court. This application is based upon the declarations of Mr. Doe's appellate counsel and trial counsel, attached hereto as Exhibits A and B, respectively, and on the appellate record in *People v. Doe* (5 Crim. F00000.)

DATED: \_\_\_\_\_

Respectfully submitted,

[YOUR NAME]  
Attorney for Appellant

**DECLARATION OF APPELLANT COUNSEL  
[YOUR NAME]**

I, [YOUR NAME], hereby declare as follows:

1. I am the appellate attorney appointed by this court to represent [Mr. Doe] on appeal.
2. [Mr. Doe] was convicted in [Name] County Superior Court of [e.g., second-degree murder]. He is serving a sentence of [e.g., 15 years to life] in state prison as a result of that conviction.
3. An opening brief has been filed in this case raising [e.g., three issues concerning errors at trial].
4. In the course of researching the issues in this case, I identified a [fourth] issue, [e.g., that trial counsel was prejudicially ineffective for failing to request an instruction under CALJIC 8.47].
5. Trial counsel has prepared and signed a declaration regarding [TELL THE COURT YOU HAVE ALREADY CONTACTED TRIAL COUNSEL AND, IF POSSIBLE, OBTAINED THEIR DECLARATION e.g., her failure to request this instruction. In that declaration, she concedes that she had no tactical reason for failing to request the instruction.] A copy of this declaration is attached as Exhibit B.
6. Should this court grant this application to expand my appointment, I am prepared to file a petition for writ of habeas corpus arguing that [e.g., the failure to request CALJIC 8.47 prejudicially deprived appellant of effective assistance of counsel].
7. [IF POSSIBLE, TELL THE COURT WHY YOUR BRIEFING ON THE HABEAS ISSUE WILL BE TIME EFFICIENT e.g., I have previously raised this issue in another case and can prepare the petition in a relatively short time; some of the analysis in this argument will be very

similar to factual and legal analysis already presented in appellant's opening brief. The petition will incorporate by reference large portions of Mr. Doe's opening brief.]

8. I expect that I can complete the petition in [GIVE AN ACCURATE ESTIMATE e.g., eight hours].

9. I do not believe that [Mr. Doe] can complete the petition on his own without the assistance of counsel. [Mr. Doe] is currently incarcerated, and [GIVE ANY OTHER DETAILS SUPPORTING WHY APPELLANT CANNOT FILE THE HABEAS ON HIS OWN e.g., the probation reports filed in this case indicate that he reads and writes at a fifth grade level. My communications with him have been almost entirely confined to telephone calls due to his poor command of written English].

I declare under penalty of perjury that the foregoing is true and correct. Executed this \_\_\_\_ day of \_\_\_\_\_, 2003, in \_\_\_\_\_, California.

Respectfully submitted,

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[YOUR NAME]  
Attorney for Appellant