

**Fares/Clavel letter to the Superior Court Judge
Letterhead**

[Date]

The Honorable [NAME]
Judge of the Superior Court
[ADDRESS]

Re: People v. [CLIENT'S NAME], Court of Appeal No. [###]
[COUNTY] County No. [###]

Dear Judge [NAME]:

I am appointed appellate counsel for [CLIENT'S NAME] in this case. I write pursuant to the spirit of *People v. Fares* (1993) 16 Cal.App.4th 954, and the terms of *People v. Clavel* (2002) 103 Cal.App.4th 516, in that I believe the abstract of judgment contains two errors which could be corrected with greater judicial economy at the superior court level rather than by appeal.

First, the abstract of judgment reflects [STATE ERROR IN ABSTRACT OF JUDGMENT THAT SHOULD BE CORRECTED, e.g., [CLIENT] was convicted by plea of first degree burglary in the present case, whereas in fact by negotiated disposition he pled to receiving stolen property in violation of Penal Code section 496. This is a very significant error, of course, in that the current case would appear to be a “strike” offense when it is not].

Second, the court awarded total presentence custody of [STATE ERROR IN PRESENTENCE CREDITS THAT SHOULD BE CORRECTED, e.g., 187 days, based on the probation officer's erroneous calculation that the period from arrest on June 24, 2002, through the date of sentencing, November 25, 2002, was 125 actual days, to which was added 62 days of “conduct” credit. However, the period from arrest through sentencing was actually 155 days, to which should be added 76 days of “conduct” credit, for a total of 231 days of presentence credit].

Pursuant to *Clavel, supra*, the superior court has authority to make this correction in response to this informal letter, thereby saving the time and expense of a formal motion proceeding. The appellate court stated in footnote 4 of *Clavel*:

“[w]e do wish to make clear, however, that nothing in this opinion prohibits counsel from initially attempting to resolve the credit miscalculation issue by way of an informal letter to the trial court. Nor is there any court rule that prohibits the trial court from entertaining an informal letter and ruling on the matter if the court so chooses. (See, e.g., California Rules of Court, rule [2.118, formerly 201(j)].)”

Thus, on behalf of [CLIENT'S NAME], I request that the court prepare, file and forward to the Department of Corrections an amended abstract of judgment reflecting the correct offense of conviction and the correct amount of presentence credit. If this correction is made, please note that the amended abstract should be sent to the Court of Appeal and the parties on appeal, pursuant to rule 8.340(a), California Rules of Court, as well as to the Department of Corrections. Thank you for your consideration of this request.

Sincerely yours,

[COUNSEL]

IMPORTANT

Use a Proof of Service for this request, including service on all parties, the Court of Appeal Clerk, and the project.