

Parts in blue print are instructions to user, not to be included in filed document unless so noted.

Practice tip: For structure of the brief, see section 1.26 of chapter 1, section 4.77, et. seq. of chapter 4, and section 5.2, et. seq. of chapter 5 of the [ADI Appellate Practice Manual](#) and rules 8.204 and 8.360 of the California Rules of Court.

Practice tip: For an LPS conservatorship appeal, substitute *In re Conservatorship of Ben C.* (2007) 40 Cal.4th 529 for *Wende*.

Practice tip: A sample *Sade C.-Phoenix H.* filing is provided on the [dependency forms and samples page](#).

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION *[NUMBER]*

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff and Respondent,

v.

[Appellant's name],
Defendant and Appellant.

Court of Appeal
No. *[number]*

Superior Court
No. *[number]*

**APPEAL FROM THE SUPERIOR COURT OF
[NAME], COUNTY**

**BRIEF SUBMITTED ON BEHALF OF APPELLANT IN
ACCORDANCE WITH THE PROCEDURES OUTLINED
IN *PEOPLE v. WENDE* (1979) 25 Cal.3d 436**

[Attorney's name, bar number]

[Address and telephone number]

[Email address and fax number if available]

Attorney for Defendant and Appellant *[name]*

By Appointment of the Court of Appeal

under the Appellate Defenders, Inc.,

[Designate Independent or Assisted Program]

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**APPEAL FROM THE SUPERIOR COURT OF
[NAME], COUNTY**

Honorable *[name]*, Judge

**BRIEF SUBMITTED ON BEHALF OF APPELLANT IN
ACCORDANCE WITH THE PROCEDURES OUTLINED IN
PEOPLE v. WENDE (1979) 25 Cal.3d 436**

STATEMENT OF APPEALABILITY

*[See rule 8.204(a)(2)(B) of the California Rules of Court and chapter 5,
§5.8, et. seq. of the ADI Appellate Practice Manual.]*

STATEMENT OF THE CASE

*[See rule 8.204(a)(2)(A) of the California Rules of Court and chapter 5,
§5.15 of the ADI Appellate Practice Manual.]*

[Practice Tip: Because this sample Wende brief does not include Anders issues (Anders v. California (1967) 386 U.S. 738), counsel may opt for writing a more thorough statement of the case and include, if applicable, issues discussed in the trial court.]

STATEMENT OF FACTS

[See rule 8.204(a)(2)(C) of the California Rules of Court and chapter 5, §5.16, et. seq. of the ADI Appellate Practice Manual.]

[Practice Tip: Because this sample Wende brief does not include Anders issues, counsel may opt for writing a more thorough statement of the facts.]

ARGUMENT

I.

THE APPLICABLE LAW IN THIS CASE IS *PEOPLE v. WENDE* (1979) 25 Cal.3d 436

Counsel has thoroughly reviewed the record in this case and consulted with Appellate Defenders, Inc. This brief summarizes the proceedings and facts with citation to the transcript. Counsel acknowledges that some justices have expressed a strong desire for listing issues under *Anders v. California* (1967) 386 U.S. 738, but counsel has carefully weighed the situation and concluded the approach needed to promote the client's interests in this particular case is to invite court review of the record unfettered by counsel's prior thought processes. To assist the court in its review of the record, however, counsel has written a more thorough statement of the case and facts than normal *[and has added a list of issues discussed in the lower court]*.

Counsel also has advised the client of this filing and the right to file a pro per brief and has complied with the other procedures laid out in *People v. Wende* (1979) 25 Cal.3d 436. (See attached declaration of counsel.)

After such a brief is filed, the Court of Appeal must conduct a review of the entire record to determine whether the record reveals any issues that would, if resolved favorably to the appellant, result in reversal or modification of the judgment. (*People v. Wende, supra*, 25 Cal.3d at pp. 440-442.) It must also afford the client a chance personally to file a supplemental brief. (*Id.* at p. 439.)

If the court, in reviewing this brief, the record, or any supplemental briefing finds good cause to conclude that an arguable issue exists, the court must order counsel to brief the issue. (*Penson v. Ohio* (1988) 488 U.S. 75, 88 [court-sanctioned withdrawal of counsel before court identified arguable issues “left petitioner completely without representation during the appellate court’s actual decisional process”].)

Dated: *[date]*

Respectfully submitted,

[Attorney’s name]

State Bar No. *[number]*

Attorney for Defendant and Appellant *[name]*

DECLARATION OF [APPELLATE COUNSEL'S NAME]

[See chapter 4, §§4.82 of the ADI Appellate Practice Manual.]

I, *[appellate counsel's name]*, declare:

1. I am an attorney duly licensed to practice before all the courts in the State of California and the appointed attorney of record for appellant *[name]* in *[his/her]* appeal.
2. I have thoroughly reviewed the record in this case. An attorney at Appellate Defenders, Inc., has also reviewed this case.
3. I have advised appellant that a brief on *[his/her]* behalf is being filed in accordance with the procedures outlined in *People v. Wende* (1979) 25 Cal.3d 436, and provided a copy of this brief.
4. I have further advised appellant that *[he/she]* may personally file a supplemental brief in this case raising issues to the court's attention and that *[he/she]* may request that I withdraw as counsel. I am making the appellate record available to appellant.
5. I hereby move to be relieved as appointed counsel, if appellant so requests.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

Dated: *[date]*

Respectfully submitted,

[Attorney's name]

State Bar No. *[number]*

Attorney for Defendant and Appellant *[name]*

CERTIFICATION OF WORD COUNT

[See rule 8.204(c)(1) of the California Rules of Court and chapter 5.]

I, *[appellate counsel's name]*, hereby certify in accordance with California Rules of Court, rule 8.360(b)(1), that this brief contains *[number]* words as calculated by the *[name of program]* software in which it was written.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

Dated: *[date]*

Respectfully submitted,

[Attorney's name]

State Bar No. *[number]*

PROOF OF SERVICE