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Materials for habeas corpus petition in a case where a conviction for murder or manslaughter was enhanced by Penal Code section 12022.7, subdivision (a), great bodily injury (*People v. Cook*)

Thank you for inquiring about relief under the California Supreme Court decision in *People v. Cook* (Feb. 5, 2015)2015 WL 467270. The California Supreme Court held that a great bodily injury enhancement under Penal Code section 12022.7, subdivision (a), cannot be attached to a conviction for murder or manslaughter. Such an enhancement is prohibited by Penal Code section 12022.7, subdivision (g).

Enclosed materials

Appellate Defenders, Inc. (ADI) has prepared the enclosed materials to help defendants who have no attorney because their cases are final – meaning the appeal is over or the time for appealing is past. They are intended for your use if: (1) you were convicted of murder or manslaughter and (2) a great bodily injury enhancement under Penal Code section 12022.7, subdivision (a), was attached to the murder or manslaughter conviction. *Do not use the materials unless your case fits both categories.* If you have questions regarding your eligibility for *Cook* relief please contact ADI.

The materials are to be used in preparing a petition for a writ of habeas corpus asking the court to strike one or more enhancements under the *Cook* decision. They include the standard habeas corpus form MC-275, which is required for self-represented petitioners, plus an attachment containing legal argument on why the enhancements are improper (in answer to question 6 of the standard form, grounds for relief). The materials also include instructions on what to do with the form and the attachment..

The ADI materials are necessarily very general: they just lay out important recent cases and some broad legal principles. *They were not written for a specific case and therefore do not talk about the facts in your case. Providing those is your job, and it is in many ways the key part of your petition.*

Legal representation

It is up to you to complete and file the petition. Once your trial and direct appeal are over, or the time to appeal has expired, you no longer have an appointed lawyer. ADI is not able to represent you, or give you legal advice, or assign an attorney to your case. If the court finds your petition states facts that may entitle you to relief, it will then appoint a lawyer.

Possible risks

There is always a possibility of risk in reopening a case or attaching documents to something filed in court. Errors in your favor could be discovered and corrected, or something incriminating might come up, leaving you worse off than before you took action. If you have any doubts, consult your former trial and appeals lawyers, who are familiar with your case and may be able to help.

Thank you again for asking. We wish you the best in your efforts.

APPELLATE DEFENDERS, INC.

Encl: Judicial Council Habeas Corpus Petition Form (MC-275)
Answers to Question 6, Grounds for Relief
Instructions for a *Cook* Habeas Corpus Petition

IMPORTANT

These materials are **not legal advice** to you. Your use of the ADI materials does not create an attorney-client relationship between you and ADI or anyone at ADI. The statements in the materials are not guaranteed to be complete or free from error or up to date (the law is constantly changing). You may use them only at your own risk and should always check to make sure what you are saying in your petition is correct and up to date, both as to fact and law.