

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

Practice tip: Petition for Review is covered in section 7.46, et. seq. of chapter 7 of the [ADI Appellate Practice Manual](#).

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

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

v.

[Appellant's name],
Defendant and Appellant.

Supreme Court

No. _____

Court of Appeal

No.

Superior Court

No. *[number]*

APPEAL FROM THE SUPERIOR COURT OF

[NAME], COUNTY

Honorable *[name]*, Judge

**PETITION FOR REVIEW TO EXHAUST STATE REMEDIES
(Rule 8.508)**

After the *[Published/unpublished]* Decision of the Court of Appeal,
Fourth Appellate District, Division *[Number]*, Affirming the Judgment
of Conviction.

[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. Independent/Assisted
Program

*Under California Rules of Court, rule 8.504(b)(6), “the title of the case and designation of the parties on the cover of the petition must be identical to the title and designation in the Court of Appeal opinion or order that is the subject of the petition.” **Note:** The words “Petition for Review To Exhaust State Remedies” on the cover are required by rule 8.508(b)(1).)*

TABLE OF CONTENTS

PAGE(S)

[See rule 8.204(a)(1)(A) of the California Rules of Court and chapter 5, §§5.4 - 5.5 of the ADI Appellate Practice Manual.]

TABLE OF AUTHORITIES..... [page]

STATEMENT OF CASE AND FACTS..... [page]

ARGUMENT [page]

I. *[Argument heading[s] - set forth the contention]*..... [page]

CONCLUSION [page]

CERTIFICATION OF WORD COUNT..... [page]

APPENDIX: OPINION OF COURT OF APPEAL..... [page]

TABLE OF AUTHORITIES

PAGE(S)

[See rule 8.204(a)(1)(A) of the California Rules of Court and chapter 5, §§5.4, 5.6 of the ADI Appellate Practice Manual.]

CASES

[Case – cite] [page]

CONSTITUTIONS

United States Constitution
[Section or amendment] [page]

STATUTES

Penal Code
[Section number] [page]

COURT RULES

California Rules of Court
[Rule number] [page]

OTHER AUTHORITIES

[Citations] [page]

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

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

v.

[Appellant's name],
Defendant and Appellant.

Supreme Court
No. _____

Court of Appeal
No. *[number]*

Superior Court
No. *[number]*

**PETITION FOR REVIEW TO EXHAUST STATE REMEDIES
(Rule 8.508)**

*TO THE HONORABLE CHIEF JUSTICE [name] AND TO THE
HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF
THE STATE OF CALIFORNIA:*

This petition for review follows the *[published/unpublished]* decision of the Court of Appeal, Fourth Appellate District, Division *[number]*, filed on *[date]*. A copy of the opinion is attached to this petition as an appendix. The petition is under rule 8.508 of the California Rules of Court. It presents no grounds for review under rule 8.500(b) and is filed solely to exhaust state remedies for purposes of federal habeas corpus.

Important: *The last sentence in the paragraph above is required by rule 8.508(b)(3)(A), California Rules of Court.*

General guidance on petition for review: *See California Rules of Court, rules 8.504 and 8.204 for form and content of petition and other*

requirements. See also ADI Appellate Practice Manual, Chapter 7, §§ 7.46 - 7.82.

STATEMENT OF CASE AND FACTS

Function: *While a statement of case and facts is not required in the petition for review, it is conventional to include it because the statements generally would aid the court in understanding the context of the issue. See ADI Manual, Chapter 7, § 7.64.*

Content: *You can use the statement of case and facts from the appellant’s opening brief. Or, if the statement in the Court of Appeal opinion is adequate, you can adopt it by stating: “Petitioner adopts the statement presented in the Court of Appeal’s decision for purpose of this petition.” Cite to the opinion pages as: Appendix, pages __ to __.*

Petition for rehearing: *Under California Rules of Court, rule 8.504(b)(3), “if a petition for rehearing could have been filed in the Court of Appeal, the petition for review must state whether it was filed and, if so, how the court ruled.” (Emphasis added.)*

ARGUMENT

I.

TYPES OF ARGUMENTS: *The purpose of a petition for review to exhaust state remedies is solely to preserve issues for later federal review. Only **federal** issues should be included in it.*

Important: If you have other issues than federal ones or believe any issue should actually be reviewed by the Supreme Court, file a regular petition for review under rule 8.504 of the California Rules of Court and include both state and federal issues in it. A regular petition will also exhaust state remedies. ADI has a form for a regular petition under “Petition for

Review” template, on the forms page.http://www.adi-sandiego.com/practice/forms_samples.asp.

ARGUMENT HEADING(S): Argue each issue listed in your “Issues Presented” section separately, with a one-sentence heading at the beginning, as in the briefs. The heading should summarize your position. If you have more than one argument, then label each as Argument I, II, and so forth. You can use or modify the argument headings from your briefs.

Note: Be sure to mention the federal nature of your argument in each heading. For example: “The Confession Was Obtained in Violation of Miranda and the Fifth Amendment Because the Officers Continued Questioning After Defendant Had Unequivocally Invoked the Right To Remain Silent.”

TEXT OF ARGUMENTS: California Rules of Court, rule 8.508(b)(3)(C), requires “a brief statement of the factual and legal bases of the claim.” After each heading, give a short legal argument in support of the position taken. You may use the arguments in your briefs as a guide. You may also discuss any points made in the Court of Appeal opinion.

Purpose: Your goal is to make sure your federal issues are clearly and completely presented to the California Supreme Court, so that you will satisfy federal “exhaustion” requirements. See ADI Manual, Chapter 9, §§ 9.71 - 9.75.

For each issue, be sure to:

(a) set out the facts in the case that constituted a federal constitutional violation;

(b) point to the specific part of the United States Constitution (such as the Fifth Amendment right against self-incrimination) and the particular federal constitutional theory (such as the right not to be interrogated after invoking the right to remain silent) on which the claim is based; and

(c) mention federal authorities (especially decisions of the United States Supreme Court, such as *Miranda v. Arizona*) related to the claim.

CONCLUSION

For the reasons stated, the petition for review should be granted.

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