

Parts in blue print are instructions to user, not to be included in filed document unless so noted. [Parts and references in green font, if any, refer to juvenile proceedings. See Practice Note, this web page, for guidance in adapting forms to juvenile cases.]

Practice tip: See California Rules of Court, rules 8.504 and 8.204 for form and content of petition and other requirements.

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. *[number]*

Superior Court
No. *[number]*

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

Honorable *[name]*, Judge

PETITION FOR REVIEW

After the *[Published/unpublished]* Decision of the Court of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.”

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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

**After the *[Published/unpublished]* Decision of the Court of Appeal,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

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This petition for review follows the *[published/unpublished]*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.

ISSUE(S) PRESENTED

According to Cal. Rules of Court, rule 8.504(b)(1), the petition must set forth a concise and nonargumentative statement of the issue or issues you want the California Supreme Court to consider. See ADI Appellate Practice Manual, Chapter 7, § 7.65.

NECESSITY FOR REVIEW

Under California Rules of Court, rule 8.504(b)(2), the petition should state, as to each issue outlined in the “Issues Presented” section, why the case is within the criteria of rule 8.500(b). For example:

- If there is a conflict between decisions of the Courts of Appeal, the need to resolve the conflict should be mentioned.*
- If the case presents an important question of law, this point should be noted.*
- You can also discuss the effect of the issue on the administration of justice or on broad social issues.*

See ADI Appellate Practice Manual, chapter 7, §§ 7.46 - 7.51.

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. (<http://www.adi-sandiego.com/panel/manual.asp> or hard copy.)*

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.

ARGUMENT HEADING(S): *Argue each issue listed in your "Issues Presented" section separately, with a heading, as in the briefs. At the beginning of the argument for each issue, set forth a one-sentence heading that summarizes your position. If you have more than one argument heading, then label each as Argument I, II, and so forth. You can use or modify the argument headings set forth in your Court of Appeal briefs.*

TEXT OF ARGUMENTS: *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 here is to convince the Supreme Court to grant review by showing that your case is important to California law. It is not to convince the Supreme Court you should win on the merits, although it*

normally should demonstrate why the Court of Appeal opinion is inadequate. See ADI Appellate Practice Manual, Chapter 7, §§ 7.63, 7.67.

Federal issues: If any of your issues is a federal one that you may want to take into federal court, you must “federalize” the issue in the petition for review in order to protect your right to federal review. That means:

(a) mention the federal claim in the 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”);

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

(c) 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

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

See ADI Manual, Chapter 9, §§ 9.71 - 9.75.

If all of your issues are being presented solely to exhaust state remedies for purposes of federal review, you may file a somewhat simpler “exhaustion” petition. ADI has a form for that under “Petition for Review To Exhaust Template” on its forms web page.

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