

CAVEAT: This sample is provided to demonstrate style and format. It is not intended as a model for the substantive argument, and therefore counsel should not rely on its legal content which may be outdated.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION _____

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
Plaintiff and Respondent,) 2d Crim.
) B _____
v.)
) (Sup.Ct.No.
APPELLANT'S NAME,) XX _____
)
Defendant and Appellant.)
_____)

APPEAL FROM THE JUDGMENT OF
THE SUPERIOR COURT OF LOS ANGELES COUNTY
THE HONORABLE [JUDGE'S NAME], JUDGE

APPELLANT'S OPENING BRIEF

ATTORNEY'S NAME
(State Bar No. _____)

ATTORNEY'S ADDRESS

Telephone: _____

Fax: _____

Email: _____

Attorney for Appellant

**** include a Table of Contents and Table of Authorities**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION _____

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
Plaintiff and Respondent,) 2d Crim.
) B _____
v.)
) (Sup.Ct.No.
APPELLANT'S NAME,) XX _____
)
Defendant and Appellant.)
_____)

APPELLANT'S OPENING BRIEF

STATEMENT OF APPEALABILITY

** check if order is appealable; if not, ask the Court of Appeal to determine appealability. [Example: Appellant filed a timely notice of appeal on [DATE]. Courts have found similar orders unappealable. (*People v. King* (2022) 77 Cal.App.5th 629, 636-637, 639; *People v. Chlad* (1992) 6 Cal.App.4th 1719, 1725-1726.) This Court should determine appealability.]

STATEMENT OF THE CASE

[Because the Court of Appeal will not be required to independently review the record, counsel should describe the relevant procedural background of the case.]

Appellant filed a timely notice of appeal. [Citation.]

STATEMENT OF FACTS

[Describe the relevant factual background of the case, if available.]

ARGUMENT

APPELLANT REQUESTS THE COURT TO FOLLOW THE PROCEDURES OUTLINED IN *PEOPLE v. DELGADILLO* (2022) 14 Cal.5th 216.

Present counsel has reviewed the entire and found no arguable issues to raise on appeal. Appellant requests that this Court follow the procedures outlined in *People v. Delgadillo* (2022) 14 Cal.5th 216 (*Delgadillo*), and permit him to file a supplemental brief raising any issues he wishes the Court to consider.

On December 19, 2022, the California Supreme Court decided *Delgadillo*, in which it outlined the procedures an appellate court should follow when appointed counsel files a “no issue” brief in an appeal that is not a first appeal as of right. (*Id.* at pp. 231-232.) In such situations, “the court should send, with a copy of counsel's brief, notice to the defendant, informing the defendant of the right to file a supplemental letter or brief and that if no letter or brief is filed within 30 days, the court may dismiss the matter.” (*Id.* at pp. 231-232.) If the defendant files a supplemental brief or letter, “the Court of Appeal is required to evaluate the specific arguments presented in that brief and to issue a written opinion.” (*Id.* at p. 232.)

[OPTIONAL - Appellate counsel asks that this Court follow these procedures. Appellant further requests that this Court exercise its discretion to conduct an independent review of the record as permitted by *Delgadillo*. (*Id.* at pp. 231-232.)]

Present counsel has written to _____ and advised him that he may file a supplemental brief with this Court within 30

days, and that if he does not do so, the Court may dismiss his appeal. Counsel has also sent appellant the transcripts of the record on appeal and a copy of this brief. Present counsel remains available to brief any issues, upon the Court's request. (See declaration attached hereto.)

Dated:

Respectfully submitted,

/s/ _____
[Attorney name]
Attorney for Appellant

DECLARATION OF [COUNSEL NAME]

I, _____, hereby declare as follows:

I am the attorney appointed to represent _____ on appeal.

I have reviewed the entire record on appeal and have not found any arguable issues to raise on appeal. An attorney at the California Appellate Project has also reviewed this case.

I have written to appellant and explained my evaluation of the record on appeal and my intention to file this pleading. I have also informed appellant of his right to file a supplemental brief. I have advised appellant that if he does not file a supplemental brief, this Court may dismiss his appeal.

I have also today sent appellant the transcripts of the record on appeal and a copy of this brief at the following address:

[Client's name and CDCR number]

[Client's address]

I do not at this time move to withdraw as counsel of record for appellant, and I remain available to brief any issues that the Court requests. I have also advised appellant that he may request this Court relieve me.

Executed under penalty of perjury pursuant to the laws of the State of California on [DATE].

/s/ _____
[Attorney name]
Attorney for Appellant

WORD COUNT CERTIFICATION
People v. APPELLANT'S NAME

I certify that this document was prepared on a computer using Corel Word Perfect, and that, according to that program, this document contains _____ words.

ATTORNEY'S NAME

PROOF OF SERVICE

I am a citizen of the United States, over the age of 18 years, employed in the County of Los Angeles, and not a party to the within action; my business address is _____.

On _____, I served the within

APPELLANT’S OPENING BRIEF

in said action, by placing a true copy thereof enclosed in a sealed envelope, addressed as follows, and deposited the same in the United States Mail at Los Angeles, California.

ATTORNEY GENERAL -WITH ADDRESS

DISTRICT ATTORNEY - WITH ADDRESS

TRIAL COURT- WITH ADDRESS

DEFENSE COUNSEL AT TRIAL- WITH ADDRESS

APPELLANT- WITH ADDRESS

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

Executed on DATE at CITY, California.

SERVER’S NAME