

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION _____

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

vs.

Defendant and Appellant.

Court of Appeal
No.

Superior Court
No.

**APPEAL FROM THE SUPERIOR COURT OF
_____ COUNTY**

Honorable , _____

**MOTION FOR EXPEDITED APPEAL,
SHORTENING OF TIME FOR APPEAL
AND CALENDAR PREFERENCE OR
SUMMARY REVERSAL**

**TO THE HONORABLE _____,PRESIDING JUSTICE, AND TO
THE HONORABLE JUSTICES OF THE COURT OF APPEAL,
FOURTH APPELLATE DISTRICT, DIVISION _____:**

Appellant, by and through his/her attorney of record, respectfully
requests that this court grant a motion to expedite the appeal, to shorten the
time for appeal, and, if necessary to obtain calendar preference pursuant to

California Rules of Court¹, rules 8.60(c) and 8.240, or, in the alternative, for summary reversal.

Appellant submits there exists good cause pursuant to rule 8.60 for granting the motion. This motion is made on the grounds that such preference will enable this appeal to be resolved before appellant is required to serve any additional part of a potentially invalid sentence, without significantly impairing the court's customary procedures and without prejudice to any party to this appeal. The motion is based upon this notice and the accompanying points and authorities.

Dated:

Attorney for Defendant and Appellant
Name
State Bar Number
Address
Telephone

¹All further rule references are to the California Rules of Court unless otherwise indicated.

**POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR
EXPEDITED APPEAL, SHORTENING OF TIME, AND, IF
NECESSARY, CALENDAR PREFERENCE OR SUMMARY
REVERSAL**

Rule 8.240 allows a party to bring a motion for calendar preference for the purpose of expediting an appeal. Rules 8.54 and 8.50(a) govern the procedure for filing such a motion. Pursuant to rule 8.60(c) [shortening time], an appeal may be expedited upon a showing of good cause.

INTRODUCTION

The issues raised on appeal are whether ____.

Appellant's release date is ____.

Were this court to reverse both convictions, appellant would of course be entitled to immediate release. If the court were to reverse only the first conviction but not the second, appellant would possibly be entitled to probation and, even if probation were not granted, he would still have completed the stayed sentence of two years on the second conviction.

To avoid serving time in prison longer than legally required, appellant seeks an expedited appeal and shortening of time. In a letter filed concurrently with this motion, appellant has waived oral argument, but, were respondent to request oral argument, appellant also asks that this court give calendar preference.

PROCEDURAL BACKGROUND

The notice of appeal was filed on _____. The opening brief was filed _____. Respondent's brief was filed on _____, and appellant's reply brief was filed on _____. Extensions of ___ days were requested by appellant and ___ days by respondent. Briefing is complete.

ARGUMENT

In the opening brief, appellant has raised issues relating to _____.

Based on appellant's current sentence of _____ years and his credits, his earliest possible release date from state prison is projected as _____.

Appellant believes the grounds for the convictions as to both counts to be especially strong. If this court reverses one or both convictions, appellant will already have served time he is not legally obligated to serve.

Rule 8.240 permits such motions for preference on the grounds "that the reviewing court should exercise its discretion to grant preference on a nonstatutory ground (e.g., economic hardship)." (Rule 8.240, Advisory Committee Comment (2003), para.3.) Here, this court should exercise its discretion to grant preference on the grounds that appellant will be irreparably harmed by serving a longer state prison sentence than may be legally required.

Alternatively, because appellant believes that resentencing is indisputable under both issues, appellant requests that this Court summarily remand her case for re-sentencing without further briefing if this Court determines that this is an appropriate case in which to do so. (*People v. Geitner* (1982) 139 Cal.App.3d 252 [providing for summary reversal when reversal appears necessary provided the parties are provided an opportunity for oral argument]; *People v. Browning* (1978) 79 Cal.App.3d 320, 232 [the appellate court has the power to entertain a motion for reversal in an appropriate criminal case].)

Granting appellant's request to shorten the time for the appeal, to expedite the appeal, and, if necessary, for calendar preference or summary reversal will not prejudice any party to this appeal, because the matter is fully briefed.

Dated:

Respectfully submitted,

Attorney for Defendant and Appellant
Name
State Bar No.
Address
Telephone