

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION _____

In re _____,

On Habeas Corpus.

No. A _____

Related Appeal

No. A _____

_____ County

Superior Court No.

PETITION FOR WRIT OF HABEAS CORPUS

[Attorney's name, bar no. address and telephone number]

Attorney For Petitioner By Court-Appointment
Through The First District Appellate Project

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION _____

In re _____,

No. A _____

On Habeas Corpus.

PETITION

TO THE PRESIDING JUSTICE AND ASSOCIATE JUSTICES OF
DIVISION _____ OF THE FIRST DISTRICT COURT OF APPEAL:

Petitioner, _____, by and through counsel, petitions for a
Writ of Habeas Corpus and by this verified petition alleges the following:

I.

Petitioner's liberty is restrained pursuant to a judgment of conviction
and sentence entered on _____ by the Honorable _____
_____ in _____ County Superior Court No. _____
committing him to the custody of the California Department of Corrections.
Petitioner was found guilty after trial on _____, of _____
_____. He was sentenced on _____, to _____.

II.

The restraint on petitioner's liberty is illegal and in contravention of
rights guaranteed him by the _____ Amendments to the United

States Constitution and by _____. Petitioner was [e.g., sentenced pursuant to findings not supported by substantial evidence. (*Jackson v. Virginia* (1979) 443 U.S. 307, 317-318 [61 L.Ed.2d 560, 99 S.Ct. 2781].) Petitioner did not receive effective assistance of trial counsel. (*Strickland v. Washington* (1984) 466 U.S. 668, 688 [80 L.Ed.2d 674, 104 S.Ct. 2052].)]

III.

This petition is being filed in this court pursuant to its original habeas corpus jurisdiction. (Cal. Const., art. VI, § 10.)

IV.

[This petition is being filed in conjunction with petitioner's currently pending direct appeal. (*People v. _____*, No. A_____.) No other appellate proceedings exist.]

V.

In order to avoid duplication, petitioner will rely on the record which has been filed in his related appeal. Petitioner accordingly requests this court to take judicial notice of the transcripts, files, briefs, motions, and records in *People v. _____*, No. A_____. (Evid. Code § 452, subd. (d)(1), § 453, § 459.)

VI.

The facts pertaining to the offenses are as follows:

VII.

The facts pertaining to trial counsel's ineffective representation are as follows:

VIII.

Petitioner has no other plain, speedy or adequate remedy at law in that the present petition is base upon material not included in the record on appeal, and consequently this material could not have been brought before the court by means of petitioner's direct appeal. (See *People v. Mendoza-Tello* (1997) 15 Cal.4th 264, 266-267.)

WHEREFORE, petitioner respectfully requests that this Court:

1. Issue a Writ of Habeas Corpus or Order to Show Cause to the California Department of Corrections to inquire into the legality of the restraint on petitioner's liberty; and
2. After hearing, issue an order vacating the judgment in this matter and granting such further relief as is appropriate in the interest of justice.

DATED: _____

Respectfully submitted,

By: _____
[attorney's signature]
Attorney for Petitioner

VERIFICATION

I, _____, declare under penalty of perjury:

I am an attorney admitted to practice law in the State of California, and I am appellate counsel for the petitioner herein, who is incarcerated in a county other than that in which I have an office.

I am authorized to file this petition for writ of habeas corpus on petitioner's behalf. All facts alleged in the above document, not otherwise supported by citations to the record, exhibits or other documents, are true of my own personal knowledge.

Executed this _____ day of _____, at _____,
California.

[attorney's signature]

MEMORANDUM OF POINTS AND AUTHORITIES

DATED: _____

Respectfully submitted,

By: _____

□

Attorney for Petitioner

DECLARATION OF []

I declare under penalty of perjury that the foregoing is true and correct. Executed this _____ day of _____ at _____, California.

[declarant]