

[ATTORNEY NAME  
(Bar No. #####)  
Street Address  
City, State ZIP  
###-###-####  
email@address.email]

Attorney for Appellant

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT, DIVISION [NUMBER]

**THE PEOPLE OF THE STATE OF  
CALIFORNIA,**

Plaintiff and Respondent,

v.

**[CLIENT NAME],**

Defendant and Appellant.

**A#####**

([County] County  
Superior Court  
No. #####)

**MOTION TO ABATE PROCEEDINGS**

To the Honorable Presiding Justice and Associate Justices of the  
California Court of Appeal, First Appellate District, Division  
[Number]:

Due to the death of appellant, appointed appellate counsel  
requests this Court order all proceedings in this case abated. A  
certified copy of appellant's death certificate is attached to this  
motion as Exhibit A.

When a party dies while an appeal is pending from a conviction in a criminal case, the court is required to permanently abate all proceedings as to appellant. (See *People v. Gonzalez* (2008) 43 Cal.4th 1118, 1131; *In re Jackson* (1985) 39 Cal.3d 464, 480, citing *People v. Dail* (1943) 22 Cal.2d 642, 659; *People v. Schaefer* (2012) 208 Cal.App.4th 1283, 1287.) The superior court must also enter an order to that effect. (*Gonzalez, supra*, 43 Cal.4th at p. 1131.) This is because “the interests of justice ordinarily require that the defendant not stand convicted without resolution of the merits of his or her appeal.” (*People v. Mount* (2021) 66 Cal.App.5th 599, 606, citation omitted.)

Appellant died on [Date]. (Exh. A.) Because appellant died during the pendency of this appeal, appellate counsel respectfully requests this Court dismiss the instant appeal, vacate the judgment of the superior court, and remand the case to the superior court with directions to permanently abate all proceedings.\*

Dated: [Month Day, Year]

Respectfully submitted,

*/s/ Attorney Name*

[ATTORNEY NAME]

Attorney for Appellant

**\*[Practice Note:** If obtaining a death certificate will take a substantial amount of time and the record on appeal has been filed, counsel should request an extension of time until after the death certificate has been obtained. If the record has not yet been filed, counsel may choose to send a letter to the Court of Appeal

informing the court that the client has died and that counsel anticipates filing an abatement motion.]