

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

THE PEOPLE OF THE STATE OF CALIFORNIA,)	
Plaintiff and Respondent,)	2d Crim. Z123456
v.)	(Sup.Ct.No. X123456)
JOHN SMITH,)	Notice of Appeal filed
Defendant and Appellant.)	December 25, 2003

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

Honorable Merry Goodlaw, Judge

**MOTION TO AUGMENT RECORD ON APPEAL
AND REQUEST FOR EXTENSION OF TIME**

JONATHAN B. STEINER
Executive Director

SUZAN HIER
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Attorneys for Appellant

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

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Respondent,

v.

JOHN SMITH,

Defendant and Appellant.

No. Z123456

(Sup.Ct.No. X123456)

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

Honorable Merry Goodlaw, Judge

**MOTION TO AUGMENT RECORD ON APPEAL
AND REQUEST FOR EXTENSION OF TIME**

TO: THE PRESIDING JUSTICE AND THE HONORABLE ASSOCIATE JUSTICES
OF THE COURT OF APPEAL OF THE SECOND APPELLATE DISTRICT,
DIVISION EIGHT

Pursuant to rules 12 and 32.1(d) of the California Rules of Court, appellant John Smith respectfully requests that the record on appeal be augmented to include the following proceedings dated November 1, 2003 in Department 2 (Robin Reporter, Reporter): The hearing on the defendant's motion for a continuance.

It is further requested that appellant be given a thirty (30) day extension of time for filing the opening brief, computed from the date of the filing of the augmented record.

The requested record is of a hearing at which the defendant requested a continuance to enable him to retain counsel to replace the public defender. A criminal defendant has a right to retain counsel of choice to enable him to defend in the manner he chooses. (See *People v. Courts* (1985) 37 Cal.3d 784; *People v. Crovedi* (1966) 65 Cal.2d 199; see also *People v. Byoune* (1966) 65 Cal.2d 345, 348; *Chandler v. Fretag* (1954)

348 U.S. 3 [99 L.Ed. 4].) The requested record is needed to review whether the trial court improperly interfered with that right.

Appellant's counsel on appeal has a duty to raise all arguable issues before this Court. (*In re Smith* (1970) 3 Cal.3d 192.) Counsel has reviewed the current record on appeal and has determined that inclusion of the requested material is necessary for the effective representation of appellant. (*People v. Gaston* (1978) 20 Cal.3d 476; *People v. Silva* (1978) 20 Cal.3d 498.)

Since the transcript requested will constitute an important part of the record on appellant's appeal, it would not be possible to file an opening brief without an extension of time of thirty days from the filing of the augmented record. This is appellant's first request for extension of time.

DATED: May 3, 2004

Respectfully submitted,

CALIFORNIA APPELLATE PROJECT

JONATHAN B. STEINER
Executive Director

SUZAN HIER

Attorneys for Appellant

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SECOND APPELLATE DISTRICT
DIVISION EIGHT

THE PEOPLE OF THE STATE OF CALIFORNIA,)	
Plaintiff and Respondent,)	No. Z123456
v.)	(Sup.Ct.No. X123456)
JOHN SMITH,)	
Defendant and Appellant.)	

**DECLARATION OF SUZAN HIER IN SUPPORT OF
MOTION TO AUGMENT RECORD ON APPEAL
AND REQUEST FOR EXTENSION OF TIME**

I, SUZAN HIER, declare under penalty of perjury:

I am the Staff Attorney at the California Appellate Project assigned to represent appellant, John Smith, on appeal in the above-entitled matter.

All of the factual statements made in the motion to augment the record on appeal are true and correct to the best of my knowledge. The material sought to be included in the record is necessary for a proper determination of the appeal.

Executed on May 3, 2004 at Los Angeles, California.

SUZAN HIER
Attorney for Appellant

DECLARATION OF SERVICE

Re: People v. John Smith

No. Z123456

I, Sally Server, declare that I am over 18 years of age, employed in the County of Los Angeles, and not a party to the within action; my business address is California Appellate Project, 520 South Grand Avenue, 4th Floor, Los Angeles, California 90071. I am employed by a member of the bar of this court.

On May 3, 2004, I served the within

**MOTION TO AUGMENT RECORD ON APPEAL
AND REQUEST FOR EXTENSION OF TIME**

on each of the following, by placing true copies thereof in envelopes addressed respectively as follows, and depositing them in the United States Mail at Los Angeles, California:

County Clerk
Criminal Courts Building
210 West Temple St., Room M-6
Los Angeles, CA 90012
FOR DELIVERY TO:
Merry Goodlaw, Judge

Bill Lockyer, Attorney General
300 South Spring Street
Fifth Floor, North Tower
Los Angeles, CA 90013
ATTN: Ronald Responder, Deputy
(hand delivered)

Steve Cooley, District Attorney
18000 Criminal Courts Building
210 West Temple Street
Los Angeles, CA 90012
ATTN: Peter Piper, Deputy

JOHN SMITH
D-12345
Anywhere State Prison
P.O. Box 123
Sacramento, CA 99999

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

Executed on May 3, 2004, at Los Angeles, California.

SALLY SERVER