

March 18, 2005

Johnny Smith Q50852
California Correctional Center
P.O. Box 2210
Susanville, CA 96127

Re: *People v. Johnny Smith*, H012345

CONFIDENTIAL ATTORNEY CLIENT COMMUNICATION

Mr. Allen:

Enclosed please find a copy of the Court of Appeal decision affirming your conviction and sentence.

I have considered some possible courses of action to challenge the decision of the Court of Appeal. However, I do not believe there are any grounds for further challenging your judgment, so my services are at an end. Nonetheless, I need to advise you on the possible options.

You may file a petition for review in the California Supreme Court. However, there are only three grounds on which the Supreme Court will grant review. They are: (1) where it appears necessary to secure uniformity of appellate decisions throughout the state, or to settle an important issue of law; (2) where the Court of Appeal was without jurisdiction over the case; or (3) where the Court of Appeal decided the case without a majority of the panel agreeing to the outcome. Unfortunately, none of the categories apply to this case. Therefore, it is my opinion that a petition to the Supreme Court would be futile. You may, if you wish, file a petition for review in the Supreme Court on your own without an attorney. **If you desire to file a petition for review in the California Supreme Court, you must file your petition between March 8 and March 17, 2000.**

If you unsuccessfully sought petition for review in the California Supreme Court, then you can petition the United States Supreme Court for writ of certiorari, which is an order saying it will consider your case. The United States Supreme Court considers very few cases, and such a case must raise an issue of federal constitutional importance. A petition to the United States Supreme Court must be filed within 90 days after the petition for review is denied by the California Supreme Court.

You may file a state petition for writ of habeas corpus in the trial court raising new issues. If your petition is denied, then you need to file a new petition for writ of habeas corpus in the court of appeal. If the court of appeal denies the petition, then you should file a petition for review in the California Supreme Court within ten days of the denial from the court of appeal. If you miss the deadline, you may instead file a new habeas petition in the California Supreme Court.

You have the right to take your case to the federal district court with a federal petition for writ of habeas corpus. The federal courts will consider only issues regarding a violation of federal law that has been presented to the California Supreme Court, but it generally will not consider search and seizure issues. A habeas corpus petition must be filed in the federal district court within one year after the appeal is finished. The time a state habeas petition is pending in court does not count toward the one year deadline. This allows you to raise new issues in a state habeas petition without losing time toward filing a federal habeas petition. You can file only one habeas petition in federal court.

You must be in custody or on conditional release on this judgment to file a state or federal habeas corpus petition. In closing, it has been a pleasure to be of service to you. The record on appeal is enclosed for you to keep. Should you have any questions, please do not hesitate to contact me. If you wish to file a state or federal habeas corpus petition or a petition for writ of certiorari, let me know and I will send you a copy of the forms.

Sincerely,

Jonathan Grossman
Staff Attorney

Enclosures