

SIXTH DISTRICT APPELLATE PROGRAM
DALLAS SACHER
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Attorneys for Appellant,
CARLOS HERNANDEZ

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

PEOPLE OF THE STATE OF CALIFORNIA,]
] NO. H024021
Plaintiff and Respondent,] (MONTEREY CO.
] SUPERIOR COURT
vs.] NO. SS011143)
]
CARLOS HERNANDEZ,] MOTION FOR
] TRANSFER OF
Defendant and Appellant.] EXHIBIT
_____]

TO THE ACTING PRESIDING JUSTICE OF THE COURT OF APPEAL, SIXTH APPELLATE DISTRICT:

Pursuant to California Rules of Court, rule 18(d), appellant moves this court for an order directing the Superior Court to promptly transmit People's Exhibit 4 to this court. The justification for this transfer is set forth in the attached declaration of counsel.

Dated: May __, 2001

Respectfully submitted,

DALLAS SACHER
Attorney for Appellant,
CARLOS HERNANDEZ

DECLARATION OF DALLAS SACHER

I am an attorney licensed to practice in California. I am attorney of record for appellant Carlos Hernandez.

The facts stated in this declaration are within my personal and firsthand knowledge. If called as a witness in this action, I could and would testify competently under oath to the following facts.

I have reviewed the record on appeal. Appellant was convicted of possessing a weapon while incarcerated in state prison (Penal Code section 4502). In seeking to prove the crime, the People introduced the purported weapon into evidence as People's Exhibit 4. (RT 43-44, 62.)

In order to competently represent appellant, it is my duty to examine People's Exhibit 4 in order to ascertain if it qualifies as a weapon within the meaning of Penal Code section 4502. At present, the exhibit is located at the Superior Court in Salinas. A trip to the Superior Court will be time consuming and will result in substantial expense to the state. Since my office is located in relatively close proximity to this court, it would be far less expensive were I to travel only to this court in order to examine the exhibit. Given these circumstances, I would respectfully request that the exhibit be promptly transmitted to this court.

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

Executed this ____ day of May, 2002 at Santa Clara, California.

DALLAS SACHER

PROOF OF SERVICE

I declare that I am over the age of 18, not a party to this action and my business address is 100 N. Winchester Blvd., Suite 310, Santa Clara, California 95050. On the date shown below, I served the within MOTION FOR TRANSFER OF EXHIBIT to the following parties hereinafter named by:

X Placing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Santa Clara, California, addressed as follows:

Attorney General's Office
455 Golden Gate Avenue
Suite 11,000
San Francisco, CA 94102-7004
[Counsel for People of the State of
California]

Carlos Hernandez
H-65838
P. O. Box 1060
Soledad, CA 93960-1060

I declare under penalty of perjury the foregoing is true and correct. Executed this ___ day of May, 2002, at Santa Clara, California.

Sue Yarbrough