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

THE PEOPLE OF THE STATE OF CALIFORNIA,) NO. H028371
)
Plaintiff and Respondent,) Monterey County
) Superior Court No.
v.) SS001228)
)
CHARLES LEONARD COOK,)
)
Defendant and Appellant.)
_____)

MOTION FOR CALENDAR PREFERENCE

TO: The Honorable Conrad L. Rushing, Presiding Justice, and to the
Honorable Associate Justices of the Court of Appeal:

Appellant, Charles Leonard Cook, moves for an order granting
immediate preference on the calendar for this appeal on grounds that
expedited review is necessary to give appellant the full benefit of an effective

remedy since he has already served more days in prison than will be required if he were to prevail on appeal.

This motion is based on the accompanying memorandum of points and authorities and the attached exhibit.

Dated: June 13, 2008.

Respectfully submitted,

JONATHAN GROSSMAN
Attorney for Appellant,
Charles Leonard Cook

POINTS AND AUTHORITIES

Calendar preference is provided for in California Rules of Court, rule 8.240. (See, e.g., *Warren v. Schecter* (1997) 57 Cal.App.4th 1189, 1198-1199.) Calendar preference “means an expedited appeal schedule, which may include expedited briefing and preference in setting the date of oral argument.” (Rule 8.240.) Calendar preference is appropriate in order for the court to preserve its jurisdiction and to be able to fashion an appropriate remedy should the appellant prevail. (See, e.g., *Melaleuca, Inc. v. Clark* (1998) 66 Cal.App.4th 1344, 1353 & fn. 1 [ordering expedited review instead of issuing a writ of supersedeas].)

In the case now on appeal, Mr. Cook pled no contest on May 24, 2000 with the agreement he would serve a four year sentence. (1CT 6-9.) He was sentenced the same day. (1CT 6-9.) On July 22, 2003, the trial court ruled the sentence was to be served consecutive (1CT 13, 18-19) to another sentence he was serving, Santa Clara County Superior Court number 205932. (Exhibit A.)

Mr. Cook argues on appeal that the plea bargain was for a concurrent sentence, and he is entitled to enforcement of the plea bargain. If he were to prevail, he would have completed all four years of sentence on May 24, 2004. In the Santa Clara County case, he was sentenced on June 23, 1998 to serve 5 years 4 months for domestic violence (Pen. Code, § 273.5, subd. (a)) and

false imprisonment (Pen. Code, § 237) with a prior “strike” conviction (Pen. Code, §§ 667, subds. (b)-(i), 1170.12). (Exhibit A.) Thus, he has completed his sentence on the Santa Clara case. He should have been released by now.

Because expedited review is necessary for this court to fashion an appropriate remedy should appellant prevail, the motion for calendar preference should be granted.

Dated: June 13, 2008.

Respectfully submitted,

JONATHAN GROSSMAN
Attorney for Appellant,
Charles Leonard Cook