

SIXTH DISTRICT APPELLATE PROGRAM
Jonathan Grossman, Staff Attorney, 154452
100 N. Winchester Blvd., Suite 310
Santa Clara, CA 95050
(408) 241-6171

Attorney for Andre Lavar Wells

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

<p>PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent,</p> <p>v.</p> <p>ANDRE LAVAR WELLS, Defendant and Appellant.</p>
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No. H033524
(Santa Clara
County Superior
Court No.
CC630499)

MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF

TO: The Honorable Conrad L. Rushing, Presiding Justice:

Pursuant to California Rules of Court, rule 8.200(a)(4), appellant requests leave to file a supplemental brief. For the convenience of the court, the brief has been lodged with this motion. As is set forth in the attached declaration, the interests of justice will be served if leave is granted. In seeking to file the supplemental opening brief, appellant also requests that respondent be given 30 days in which to file a supplemental respondent's brief.

Wherefore, appellant moves that this Court grant him permission to file the supplemental brief.

Dated: December 11, 2009.

Respectfully submitted,
SIXTH DISTRICT APPELLATE PROGRAM

By: _____
Jonathan Grossman
Attorney for Appellant
Andre Lavar Wells

DECLARATION OF APPELLANT COUNSEL

I am an attorney licensed to practice law in California and am the attorney of record for appellant Andre Lavar Wells.

On May 20, 2009, I filed appellant's opening brief. At that time, I believed that I had included all arguably meritorious issues available to my client. On November 10, 2009, the respondent's brief was filed. In the respondent's brief, it is argued trial counsel failed to properly preserve for appeal certain claims. As argued in the reply brief, appellant contends respondent is mistaken. Nonetheless, for purposes of protecting appellant's rights, I request that this court permits the filing of the supplemental brief which claims ineffective assistance of trial counsel.

I have promptly prepared a supplemental opening brief in order to raise the previously omitted issue. In my professional opinion, the issue addressed in the brief is meritorious. Given these circumstances, I would respectfully request this court to grant leave to file the supplemental opening brief.

I also request that respondent be given 30 days from the date on which the supplemental opening brief is filed in which to file their respondent's brief. In this way, no prejudice will accrue to respondent.

I declare under penalty of perjury under the laws of the state of California that this declaration is true and correct. Executed at Santa Clara, California, on December 16, 2011.

Jonathan Grossman