

Appendix A

CA Supreme Court Decision

Appendix A

SUPREME COURT
FILED

DEC 30 2025

Jorge Navarrete Clerk

Court of Appeal, Fourth Appellate District, Division One - No. D086950

S294026

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

PHILONG HUYNH, Petitioner,

v.

SUPERIOR COURT OF SAN DIEGO COUNTY, Respondent;

THE PEOPLE, Real Party in Interest.

The petition for review is denied.

GUERRERO

Chief Justice

Appendix B

Petition for Review in CA
Supreme Ct.

Appendix B

Phuong Huynh, in Pro Per
P.O. Box 409090
Tone, CA 95640

California Supreme Court

Phuong Huynh,	§	No:
Petitioner,	§	Motion for Leave and
v.	§	Petition for Review
Superior Court of	§	of Denial of Marsden
San Diego County,	§	Hearing and Motion
Respondent	§	to Disqualify

To the Chief & Associate Justices 11/5/2025

Motion for Leave
to File Late Petition

I, Petitioner, declare under penalty of perjury that the appellate court's denial of mandate, this time as it relates to Marsden motion and motion to disqualify, was filed and mailed to me on 11/5/2025 but Mule Creek State Prison did not give it to me until 11/11/2025. It took

two days for me, due to health reasons, to draft this petition for review, which is to be copied and mailed on Friday 11/14/2025 but prison mail does not go out until Monday 11/17/2025.

For good cause showing I respectfully request the Court to grant leave to file the petition for review late.

I declare the foregoing is true and correct in my knowledge and belief.

Executed on the date below in Ione, CA.

DATE: 11/13/2025

By: *Phylong Huynh*
Phylong Huynh.

PETITION FOR REVIEW

QUESTION PRESENTED

Where writ of mandate is the only speedy and adequate vehicle mandated by the law to be used to appeal the trial court's motion to disqualify, and where appointed counsel was asked but did not file a petition of writ of mandate, and

where denial of Marsden hearing can also only be appealed by mandate petition, was the denial of writ of mandate unreasonable for a prisoner petitioner like myself whose appointed public defender is not adequately representing me?

ARGUMENT

I - The appellate court wrongly denied petition for writ of mandate as mandate was the only vehicle applicable under the law in this case.

I have an ongoing PC 1172.6 evidentiary hearing in San Diego County Superior Court. The trial court had made prejudicial comments that I was a character but that I had no character as set out in my petition for writ of mandate. The trial court also refused to hold a Marsden hearing after a Marsden request was mailed to the court. The trial court denied both

motions (motion to disqualify and motion to substitute counsel) at the 9/19/2025 evidentiary hearing for PC 1172.6 matter. The trial court orally ruled that there was case law not allowing for disqualification on 1172.6 proceeding but without citing what the case law was and also ruling that Marsden only applies to trials. I subsequently filed a petition for writ of mandate but it was summarily denied by the appellate court.

The laws, CCP 170.3 and *People v. Superior Court (Martin)* (1979) 98 Cal.App. 3d 515, 520, dictate the only vehicle to appeal the denial of motion to disqualify and the denial of a Marsden hearing is the petition for writ of mandate. Here, the Marsden motion was denied without hearing as required by *People v. Marsden*, 2 Cal.3d 118, 123-125 (1970). Without hearing, a silent record precludes intelligent appellate review of inadequate representation. *People v. Cruz* (1978) 83 Cal.App. 3d 308, 317-18.

And the trial court's ruling that Marsden only applies to trial is legally erroneous. Right to counsel applies to "all critical stages of the criminal process" [Marshall v. Rodgers (2013) 569 U.S. 58, 62], including "resentencing hearings" as here in this 1172.6 resentencing evidentiary hearing. The right to counsel "entitles the defendant not to some bare assistance but rather effective assistance." [People v. Staten (2000) 24 Cal. 4th 434, 450].

Wherefore, I ask the Court to grant review.

VERIFICATION:

I, Philong Huynh, declare under penalty of perjury that the above is true and correct.

DATE: 11/13/2025

By: *Philong Huynh*
Philong Huynh

Philong Huynh

Pet. for Review.