

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

**THE PEOPLE OF THE STATE OF** )  
**CALIFORNIA,** )  
 ) H012345  
Plaintiff and Respondent, )  
 )  
v. )  
 )  
**JESSE JAMES,** )  
 )  
Defendant and Appellant. )  
\_\_\_\_\_ )

Santa Clara County Superior Court No. C1234567  
The Honorable M. Sheriff, Judge

**APPELLANT'S OPENING BRIEF**

**SUBMITTED IN ACCORDANCE WITH PROCEDURES  
OUTLINED IN *PEOPLE v. WENDE* (1979) 25 CAL.3D 436**

SIXTH DISTRICT APPELLATE PROGRAM

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By appointment of Court of Appeal

# TABLE OF CONTENTS

**Page**

**TABLE OF AUTHORITIES**

<b><u>CASES</u></b>	<b><u>Pages</u></b>
<i>People v. Wende</i> (1979) 25 Cal.3d 436 .....	1
 <b><u>STATUTES and COURT RULES</u></b>	
Penal Code	
§ 1237 .....	1
§ 1237.5 .....	1
California Rules of Court	
Rule 8.304 .....	1

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**STATEMENT OF APPEALABILITY**

This appeal follows a guilty plea and is authorized by Penal Code section 1237 and 1237.5 and rule 8.304(b)(4)(B) of the California Rules of Court.

**STATEMENT OF THE CASE**

On January 1, 2011, the Santa Clara County District Attorney filed information no. C1234567. The information charged Jesse James with making a criminal threat (Pen. Code, § 422). (2 CT 31-33.)

On February 1, 2012, appellant plead guilty. (2 CT 45.) Before he

pled, he was advised of, and waived, his constitutional rights to a jury trial, to present a defense, to confrontation and to self-incrimination. (1RT 15-18.) In exchange for his plea, it was agreed he would serve no more than two years in prison. (2CT 45.)

On March 1, 2011, the court sentenced appellant to serve two years in prison. (2CT 54.)

Appellant timely filed a notice of appeal on March 15, 2011, challenging the sentence. (2CT 55.)

### **STATEMENT OF FACTS**

\* \* \*

## ANALYSIS OF THE LAW

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 counsel requests that this court independently review the entire record on appeal.

Appellant has been advised by counsel of his opportunity to inform the court of any issues he may think his case contains, his right to file a supplemental brief with this court, and his right to request to have present counsel relieved and another attorney appointed. Counsel has sent appellant the record on appeal to enable him to prepare a supplemental opening brief if he chooses to file one.

Present counsel has reviewed the entire record on appeal and remains available to brief any issue upon the court's request.

## DECLARATION OF COUNSEL

I, Paul Couenhoven declare:

1. I am an attorney of law admitted to practice before all courts of California, and am appointed counsel for appellant Jesse James.

2. I have thoroughly reviewed the record and the files in this case.

3. I have determined that a brief pursuant to *People v. Wende, supra*, 25 Cal.3d 436 should be filed.

4. I have written Mr. James advising him that a brief pursuant to *People v. Wende, supra*, would be filed. I also informed him of his right to file a supplemental brief. I sent him the record on appeal to aid in the preparation of any supplemental brief.

5. I have also advised Mr. James that he has a right to ask the court to have present counsel relieved and another attorney appointed.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that it was executed on \_\_\_\_\_, at Santa Clara, California.

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PAUL COUENHOVEN

**CONCLUSION**

Appellant respectfully requests that this Court independently review the entire record on appeal pursuant to *People v. Wende, supra*, 25 Cal.3d 436.

DATED: \_\_\_\_\_

Respectfully submitted,

**SIXTH DISTRICT APPELLATE PROGRAM**

By: \_\_\_\_\_  
Paul Couenhoven  
Staff Attorney  
Attorney for Appellant  
Jesse James



## **CERTIFICATE OF WORD COUNT**

I certify that, according to my word processing software, this brief contains \_\_\_\_\_ words excluding the cover page, tables and the case caption on page 1.

DATED: March 1, 2013

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Paul Couenhoven