

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

COPY

FIRST APPELLATE DISTRICT

DIVISION THREE

FILED

JUN 08 2011

Court of Appeal - First App. Dist.
DIANA HERBERT

By _____ DEPUTY

THE PEOPLE,
Plaintiff and Respondent,

v.

KUNG,
Defendant and Appellant

A131987

(Alameda County Superior
Court Appellate No. 5113
Trial Court No. 50608153/TRF)

BY THE COURT:

Defendant _____ Kung has presented this Court with a petition to transfer pursuant to rule 8.1006 of the California Rules of Court. Subdivision (a) of rule 8.1006 provides that “[a] party may file a petition in the Court of Appeal asking for an appellate division case to be transferred to that court only if an application for certification for transfer was first filed in the appellate division and denied.” An application for certification for transfer must be filed in the appellate division no later than 15 days after the decision is filed. (Cal. Rules of Court, rule 8.1005 (b)(1)(A).) The appellate division decision was filed on April 11, 2011 and defendant’s application to certify this case for transfer to the Court of Appeal was filed on May 5, 2011. Because defendant failed to timely apply for certification for transfer from the appellate division, his petition to transfer must be dismissed.

Date: JUN 08 2011 _____

McGuinness, P.J. _____ P.J.