

Decision of Cal. Court of Appeal, Fourth Appellate District, Division two
Pages 1 (Not including cover page)

1. Order from Court of Appeal _____ pg 2

APPENDIX A

Order from Court of Appeal

Page 1 of Appendix A.

COURT OF APPEAL -- STATE OF CALIFORNIA
FOURTH DISTRICT
DIVISION TWO

ORDER

In re DEVIN LEE RINTYE

E077130

on Habeas Corpus.

(Super.Ct.No. FSB051032)

The County of San Bernardino

THE COURT

The petition for writ of habeas corpus is DENIED.

McKINSTER

Acting P. J.

Panel: McKinster
Raphael
Fields

cc: See attached list

Decision of Superior Court of California County of San Bernardino

Pages: 6 (Not including cover pages)

1. Order from SUPERIOR COURT _____ pg. 1
2. Minute Order from SUPERIOR COURT _____ P.g. 6

APPENDIX B.

Order from Superior Court

Pages 1-5 of Appendix B.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 20 2021

BY Sylvia Ramirez
SYLVIA RAMIREZ, DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

In the matter of

Case No. WHCSB2100263

Devin Lee Rintye, Petitioner

ORDER

for Writ of Habeas Corpus

Petitioner Devin Lee Rintye filed a petition for writ of habeas corpus on April 6, 2021. An earlier petition was denied on December 19, 2016.

On December 14, 2007, Petitioner was convicted by plea of the voluntary manslaughter (Pen. Code, § 192, subd. (a)) of Mary Kathleen Oliverio with personal use of a firearm (Pen. Code, § 12022.5, subd. (a)). Pursuant to his plea, Petitioner waived credits totaling 365 days (including conduct credit). In exchange for his plea, the trial court sentenced Petitioner to 16 years in state prison. At the time Petitioner killed his victim, Petitioner was 16 years and five months old.¹

The petition contends Petitioner received ineffective assistance of counsel related a failure to investigate at the time of sentencing, that Petitioner should not have received the aggravated term for his firearm use (10 years), and that the trial court erred by failing to consider factors set forth in *Miller v. Alabama* (2012) 567 U.S. 460. The court receiving a petition for writ of habeas corpus evaluates it by asking whether, assuming the petition's factual allegations are true, the petitioner would be entitled to relief. (*In re Figueroa* (2018) 4 Cal.5th 576, 586; *In re Clark* (1993) 5 Cal.4th 750, 769, fn. 9; *In re Lawler* (1979) 23 Cal.3d

¹ The Court takes judicial notice of pertinent portions of FSB051032 and WHCJS1600253 as referenced herein. (See Evid. Code, § 452, subd. (d).)

1 190, 194.) "If no prima facie case for relief is stated, the court will summarily deny the
2 petition." (*People v. Duvall* (1995) 9 Cal.4th 464, 475.) A procedurally defective petition
3 may also be summarily denied. (*Gomez v. Superior Court* (2012) 54 Cal.4th 293, 301.) The
4 petition fails to state a prima facie claim for habeas relief and is procedurally barred.

5 "Because a criminal defendant enjoys the right to appointed trial counsel, to a jury
6 trial, and to an appeal, the various procedural limitations applicable to habeas corpus petitions
7 are designed to ensure legitimate claims are pressed early in the legal process, while leaving
8 open a 'safety valve' for those rare or unusual claims that could not reasonably have been
9 raised at an earlier time." (See *In re Reno* (2012) 55 Cal.4th 428, 452.) A claim should be
10 asserted in a habeas corpus petition as promptly as the circumstances would allow. (*Id.* at
11 460; *In re Robbins* (1998) 18 Cal.4th 770, 780.) Generally, a court will not consider on
12 habeas review a claim that was not presented in a timely manner. (*Reno*, 55 Cal.4th at 459; *In*
13 *re Clark* (1993) 5 Cal.4th 750, 797-798.) A court will not consider the merits of a delayed
14 petition unless the petitioner provides an adequate justification for the failure to present all
15 known claims in a timely manner. (*Clark*, 5 Cal.4th at 783 ["Our decisions have consistently
16 required that a petitioner explain and justify any substantial delay in presenting a claim."],
17 citing *In re Swain* (1949) 34 Cal.2d 300, 304.) Petitioner has failed to do so, and this is a
18 basis to deny his claims.

19 Moreover, Petitioner's plea requires denial of this petition. Petitioner's conviction
20 arose from his plea, and the claims Petitioner now raises in this petition are a challenge to an
21 agreed-upon disposition. As such, they have been waived by virtue of his plea and there is no
22 basis to excuse this waiver. (See *People v. Maultsby* (2012) 53 Cal.4th 296, 301-304; *People*
23 *v. Hester* (2000) 22 Cal.4th 290, 295.) Petitioner has received the benefit of his bargain and
24 may not thereafter trifle with the courts by attempting to better his bargain.

25 The Court in *Hester* (22 Cal.4th at 295) commented:

26 Where the defendants have pleaded guilty in return for a
27 specified sentence, appellate courts will not find error even
28 though the trial court acted in excess of jurisdiction in reaching
29 that figure, so long as the trial court did not lack *fundamental*
30 jurisdiction. The rationale behind this policy is that defendants
31 who have received the benefit of their bargain should not be
32 allowed to trifle with the courts by attempting to better the
33 bargain through the appellate process. [Emphasis original.]

34 In *People v. Couch* (1996) 48 Cal.App.4th 1053, 1057, the court stated:

35 The fact that a defendant has received a benefit in return for
36 agreeing to accept a specified sentence is itself sufficient to

1 estop that defendant from later seeking to unfairly supplement
2 this benefit by mounting an appellate attack on the trial court's
3 imposition of the specific sentence which the defendant agreed
4 to accept. . . . When a defendant maintains that the trial court's
5 sentence violates rules which would have required the
6 imposition of a more lenient sentence, yet the defendant
7 avoided a potentially harsher sentence by entering into the plea
8 bargain, it may be implied that the defendant waived any rights
9 under such rules by choosing to accept the plea bargain.

10 Petitioner's plea resulted from negotiations. The Court notes that the plea agreement
11 in this case was just that – an agreed disposition, i.e., a settlement of the case. Petitioner is
12 asking that the Court modify his plea agreement to a sentence better than what he bargained
13 for. However, principles of contract law are part of the plea bargaining process. (*Doe v.*
14 *Harris* (2013) 57 Cal.4th 64, 69 “[A] negotiated plea agreement is a form of contract and is
15 interpreted according to general contract principles.”), citing *People v. Segura* (2008) 44
16 Cal.4th 921, 930; see also *People v. Somnang Kim* (2011) 193 Cal.App.4th 1355, 1360 [“Plea
17 bargains are generally governed by a specialized form of the law of contracts. . . . [L]ike the
18 parties to a private contract, the state and the defendant are bound by the agreement as
19 between themselves.” (Citations omitted.); see also, *People v. Daugherty* (1981) 123
20 Cal.App.3d 314, 321 [“Both the prosecution and the defendant are entitled to the benefits for
21 which they have bargained.”].)

22 The court in *People v. Shelton* (2006) 37 Cal.4th 759, 767 explained:

23 “A negotiated plea agreement is a form of contract, and it is
24 interpreted according to general contract principles. [Citations.]
25 ‘The fundamental goal of contractual interpretation is to give
26 effect to the mutual intention of the parties. [Citation.] If
27 contractual language is clear and explicit, it governs. [Citation.]
28 On the other hand, “[i]f the terms of a promise are in any
29 respect ambiguous or uncertain, it must be interpreted in the
30 sense in which the promisor believed, at the time of making it,
31 that the promisee understood it.” [Citations.]’ [Citation.] ‘The
32 mutual intention to which the courts give effect is determined
33 by objective manifestations of the parties' intent, including the
34 words used in the agreement, as well as extrinsic evidence of
35 such objective matters as the surrounding circumstances under
36 which the parties negotiated or entered into the contract; the

1 object, nature and subject matter of the contract; and the
2 subsequent conduct of the parties. [Citations.]’ [Citations.]

3 Petitioner agreed to a 16 year sentence to avoid a potential sentence of 50 years to life as
4 charged in the information. Petitioner must abide by the reduced custody commitment he
5 received because he agreed to it.

6 The petition also fails because Petitioner has not complied with Penal Code section
7 1237.5. (But see *People v. Allison* (2019) 39 Cal.App.5th 688, 699-700 [concluding
8 certificate not necessary for Superior Court habeas claim based on Penal Code section
9 1170.1]). As the current petition challenges the validity of Petitioner’s plea agreement, the
10 challenge requires a certificate of probable, and Petitioner may not circumvent that
11 requirement by filing a petition for writ of habeas corpus. (See *In re Chavez* (2003) 30
12 Cal.4th 643, 651 [“A defendant who challenges the validity of such a plea on the ground that
13 trial counsel rendered ineffective assistance in advice regarding the plea may not circumvent
14 the requirements of section 1237.5 by seeking a writ of habeas corpus.”], citing *In re Brown*
15 (1973) 9 Cal.3d 679, 683.)

16 By requiring a defendant who has resolved his case by plea agreement to obtain a
17 certificate of probable cause, section 1237.5 promotes judicial economy by weeding out
18 frivolous challenges to plea agreements. (*People v. Mendez* (1999) 19 Cal.4th 1084, 1095.)
19 “Its assumption is that, as a general matter, a judgment of conviction entered on a defendant’s
20 plea of guilty or nolo contendere does not present any issue warranting relief on appeal, and
21 hence should not be reviewed thereon.” (*Id.* at 1097.) The petition does not acknowledge the
22 certificate requirement and fails to explain Petitioner’s lack of compliance. Petitioner’s
23 failure to obtain the certificate also underscores the untimeliness of the petition. The
24 certificate should be requested within the time limits for taking an appeal from the judgment
25 (see Cal. Rules of Court, rule 8.308(a) [“... a notice of appeal and any statement required by
26 Penal Code section 1237.5 must be filed within 60 days after the rendition of the judgment
27 ...”]), but the judgment in Petitioner’s case became final in 2008. (*In re Reno* (2012) 55
28 Cal.4th 428, 459; *In re Clark* (1993) 5 Cal.4th 750, 797-798.)

29 The Court is also aware that on December 19, 2014, Petitioner pled no contest to a
30 violation of Penal Code section 4501 for his part in an assault that he committed at Kern
31 Valley State Prison. Petitioner admitted that his San Bernardino County manslaughter
32 conviction as a prior strike under section 667, subdivision (c) through (j). In exchange for his
33 plea, Petitioner received the low term of two years doubled for the prior strike, plus two more
34 years consecutive for an unrelated offense, for a total of six years. (*People v. Rintye* (2017)
35 2017 Cal.App. Unpub. LEXIS 1502, pg. 3, 2017 WL 823571.) Petitioner was also sentenced
36

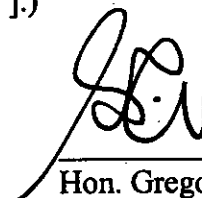
1 to 16 months by the San Joaquin County Superior Court on November 30, 2020, case no.
2 STK-CR-FE-2020-0003745.

3 Based on the date Petitioner was sentenced in San Bernardino County, the credits
4 awarded by the trial court, and anticipated conduct/worktime credits Petitioner would be
5 expected to receive from the Department of Corrections and Rehabilitation, Petitioner's
6 custody status is no longer related to his manslaughter conviction – the sentence from
7 Petitioner's San Bernardino County case should have been completed no later than the early
8 part of 2020. As Petitioner's current custody appears unrelated to his San Bernardino County
9 conviction, habeas relief is no longer available from the San Bernardino County court. (See
10 *People v Aguilar* (2014) 227 Cal.App.4th 60, 68 [A petitioner that "has fully served his
11 sentence" . . . "is in neither actual nor constructive [] custody" and is therefore "ineligible as
12 a matter of law for habeas corpus relief."]; *In re Stier* (2007) 152 Cal.App.4th 63, 82.)

13 To the extent Petitioner may have lost credits while at CDCR due to misconduct (Pen.
14 Code, §§ 2932, subd. (e), 2933, subd. (c) ["Credit is a privilege, not a right. Credit must be
15 earned and may be forfeited. . . ."]; see *People v. Buckhalter* (2001) 26 Cal.4th 20, 29-30
16 ["Such prison worktime credits, once earned, may be forfeited for prison disciplinary
17 violations and, in some cases, restored after a period of good behavior. (Citations.) Accrual,
18 forfeiture, and restoration of prison worktime credits are pursuant to procedures established
19 and administered by the Director."]; *People v. Saibu* (2011) 191 Cal.App.4th 1005, 1012), it
20 was incumbent on Petitioner to provide this Court with documentation indicating his current
21 custody was related to his San Bernardino County case, and specifically documentation
22 related to his convictions in Kern and San Joaquin counties. (*In re Martinez* (2009) 46 Cal.
23 4th 945, 955-956 ["[T]he petition should . . . state fully and with particularity the facts on
24 which relief is sought [citations], as well as . . . include copies of reasonably available
25 documentary evidence supporting the claim."]; *People v. Duvall* (1995) 9 Cal.4th 464, 474;
26 *People v. Karis* (1998) 46 Cal.3d 612, 656; *In re Swain* (1949) 34 Cal.2d 300, 303-304.) In
27 this regard, Petitioner has failed to satisfy his pleading burden. (*Duvall*, 9 Cal.4th at 474
28 ["Because a petition for writ of habeas corpus seeks to collaterally attack a presumptively
29 final criminal judgment, the petitioner bears a heavy burden initially to *plead* sufficient
30 grounds for relief, and then later to *prove* them."].)

31 The petition is DENIED.

32
33 Dated: April 20, 2021



34 Hon. Gregory S. Tavill
35 Judge of the Superior Court
36

Minute Order from Superior Court

Page 6 of Appendix B.



**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN BERNARDINO**
San Bernardino District
247 West 3rd St
San Bernardino, CA 92415
www.sb-court.org

MINUTE ORDER

Case Number: WHCSB2100263

Date: 4/20/2021

Case Title: In the Matter of: Devin Lee Rintye

Department S20 - SEJC

Date: 4/20/2021

Time: 9:00 AM

**Hearing on Petition for
Writ of Habeas Corpus**

Judicial Officer: Gregory S Tavill
Judicial Assistant: Sylvia Ramirez
Court Reporter: Not Reported or Recorded
Bailiff: T Snyder

Appearances

Petitioner not present

Proceedings

The court having read and considered the Petition for Writ of Habeas Corpus rules as follows:
Petition denied
See written ruling for Court findings

Order Denying Petition for Writ of Habeas Corpus Filed

Notice given by Judicial Assistant

Correspondence Coversheet Generated to Mail:
Copy of Order and Minute Order.

== Minute Order Complete ==

Decision of Supreme Court of California Denying Review

Pages: 1 (Not including cover page)

1. Decision in the Supreme Court of California _____ p.g. 1

APPENDIX C.

Decision in the Supreme Court of California

Page 1 of Appendix C.

AUG 25 2021

Jorge Navarrete Clerk

Court of Appeal, Fourth Appellate District, Division Two - No. E077130 ^{Deputy}

S269941

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re DEVIN LEE RINTYE on Habeas Corpus.

The petition for review is denied.

Cantil-Sakauye, C.J., was absent and did not participate.

KRUGER

Acting Chief Justice

**Additional material
from this filing is
available in the
Clerk's Office.**