

SUPREME COURT
FILED

OCT 26 2022

Jorge Navarrete Clerk

S275798

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re KEITH D. ARLINE, JR., on Habeas Corpus.

The petition for writ of habeas corpus is denied. (See *In re Miller* (1941) 17 Cal.2d 734, 735 [courts will not entertain habeas corpus claims that are repetitive].)

CANTIL-SAKAUYE

Chief Justice

APPENDIX-A

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

ORDER

In re KEITH D. ARLINE, JR.,

E078742

on Habeas Corpus.

(Super.Ct.Nos. CVBL2100100,
RIC1606914, RIC1803497,
RIF078730 & RIF090611)

The County of Riverside

THE COURT

The petition for writ of habeas corpus is DENIED.

MENETREZ

Acting P. J.

Panel: Menetrez
McKinster
Codrington

cc: See attached list

APPENDIX-B

JUN 25 2021

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

C. Avalos

In the Matter of

Habeas Case Number: CVBL2100100

Keith D. Arline Jr.

Criminal Case Number: RIF090611

On Habeas Corpus.

Supplemental Denial Order

Having read and considered the Petitioner's "Request for Reason" received on June 15, 2021, the Court now rules as follows:

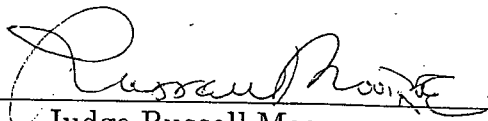
In the recently-received correspondence, the Petitioner asserts that the Court neglected to address his claim that the District Attorney failed to provide defense counsel with a toxicology report of a blood sample taken from the Petitioner. Petitioner alleges that this toxicology report is newly-discovered evidence and will prove that he was under the influence at the time he committed murder thereby potentially mitigating it from first- to second-degree. (Pen. Code, §§ 29.4, 187-189.) This claim was previously raised and rejected in habeas cases RIC1606914 and RIC1803497. The previous habeas judges read, considered, and ruled on all the claims raised in the prior petitions. "An order denying a petition for writ of habeas corpus in the superior court is final immediately upon ... filing." (See, e.g., *Jackson v. Superior Court* (2010) 189 Cal.App.4th 1051, 1065, fn. 5; *In Re Clark* (1993) 5 Cal.4th 750, 767, fn. 7; *In re Hochberg* (1970) 2 Cal.3d 870, 876.) The remedy for those judges' errors, if any, in addressing the Petitioner's claims in the prior petitions was to seek relief in the court of appeal (which the Petitioner previously attempted unsuccessfully). (*People v. Garrett* (1998) 67 Cal.App.4th 1419.) This court must therefore deny relief.

For the Petitioner's guidance however, the court will add the following. The current petition does not include a copy of the toxicology report in question. What's more, there is no substantial evidence before the court that a toxicology report even exists. What has been submitted is a document that reflects that blood was drawn

1 from the Petitioner around the time of the murder. There is no evidence before the
2 court however that the blood sample was ever tested or what the results, if any,
3 may be.¹ The District Attorney cannot disclose or fail to disclose evidence that does
4 not exist. Therefore, this petition alleging a violation of the Petitioner's
5 constitutional rights due to an alleged failure to disclose exculpatory evidence fails.
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7 The petition in this case remains respectfully DENIED.

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9 Dated: JUNE 25, 2021


Judge Russell Moore
Riverside County Superior Court

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 APPENDIX-C

¹ It is also not clear that the blood sample exists or is in the custody of law enforcement. The document submitted to establish that blood was drawn is from the "American Forensic Nurses – American Specialized Medical Services," and their connection to law enforcement is not certain.