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App. 1

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

October 6, 2023

Mr. Robert R. Snyder
Prisoner ID # AC-9136
P.O. Box 1050
Soledad, CA 93960

Re: Robert R. Snyder v. California
Application No. 23A305

Dear Mr. Snyder

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Kagan, who on October 6, 2023, extended the time to and including November 25, 2023.

This letter has been sent to those designated on the attached notification list.

Sincerely,
Scott S. Harris, Clerk

by Emily Walker
Case Analyst

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Supreme Court

Filed: July 12, 2023

Court of Appeal,
Second Appellate
District, Div. Four

No. B328809

S280298

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re ROBERT R. SNYDER on Habeas Corpus

The petition for review is denied.

S/ GUERRERO

Chief Justice

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FILED: May 25, 2023

EVA McClintock, Clerk

S. Veverka, Deputy Clerk

**IN THE COURT OF APPEAL OF THE STATE
OF CALIFORNIA, SECOND APPELLATE
DISTRICT DIVISION FOUR**

In re:) Ct. of Appeal No.: B328809
Robert R. Snyder)
) L. A. County Superior
) Court Case No.: GA064579)
On Habeas Corpus)
_____) **ORDER**

THE COURT:

The petition for writ of habeas corpus filed May 17, 2023, has been read and considered. The petition is denied as procedurally barred. The claims were either previously raised and rejected by appeal or habeas petition, or they could have been raised but were not, and no exception applies permitting them to be raised now. (See *In re Waltreus* (1965) 62 Cal. 2d 218, 215; *In re Dixon* (1953) 41 Cal.2d 756, 759; *In re Reno* (2012) 55 Cal.4th 428, 454-455.)

(S/) (S/) (S/)
*CURREY, Acting P.J. COLLINS, J. MORI, J.

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FILED
Superior Court of California
County of Los Angeles

APR 19 2023

David W. Slayton, Executive
Officer/Clerk of Court
By: C. Morgan, Deputy

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

THE PEOPLE OF THE
STATE OF CALIFORNIA) Case No. GA 064579
)
Plaintiff and Respondent,) ORDER SUMMARILY
) DENYING PETITION
versus) FOR WRIT OF
) HABEAS CORPUS
ROBERT R. SNYDER)
Defendant and Petitioner,) (CRC 4.551(g))

The Court has read and considered the PETITION FOR WRIT OF HABEAS CORPUS filed by the Petitioner on February 23, 2023. The petition is denied for the following reasons:

Petitioner was convicted in November 2009 and was sentenced to a term of 50 years to life in state prison on February 25, 2010. Defendant pursued multiple post-conviction appeals and habeas corpus petitions, all of which resulted in the denial of relief he sought.

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In the pending petition, Petitioner again attacks the validity of his conviction. Petitioner asserts that he was wrongfully charged and convicted in violation of his 5th and 14th Amendment rights. He also claims that his sentence is unconstitutional. Petitioner has made similar, if not identical, claims in previous post-conviction filings.

Even if the court were to assume that Petitioner's claims are new, his claims fail for four primary reasons. First, Petitioner provides no evidentiary support for his claims. Petitioner must allege additional facts to establish a *prima facie* case for habeas relief and he has failed to do so. Vague or conclusory allegations made without any explanation of the basis for the allegations do not warrant relief. See *In re Martinez* (2009) 46 Cal.4th 945, 955-56; *People v. Duval*, (1995) 9 Cal. 4th 464; *People v. Karis* (1988) 46 Cal. 3rd 612, 656; *In re Swain*, (1949) 34 Cal. 2nd 300,303-304. Second, Petitioner's conviction was final more than 13 years ago, and he has failed to explain and justify the significant delay in seeking habeas relief. *In re Clark*, (1993) 5 Cal. 4th 750, 765; *In re Swain* (1949) 34 Cal. 2nd 300, 302. Third, the petition raises issues could have been raised on appeal, but apparently were not, and Petitioner has failed to allege facts establishing an exception to the rule barring habeas consideration of claims that could have been raised on appeal. *In re Reno* (2012) 55 Cal. 4th 428, 490-93; *In re Harris* (1993) 5 Cal. 4th 813, 825-26; *In re Dixon*, (1953) 41 Cal. 2nd 755,759; *In re Smith* (1911) 161 Cal. 208. Fourth, Petitioner filed prior petitions for habeas relief and apparently failed to raise the claims raised

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in the current petition, and Petitioner has not alleged facts establishing an exception to the rule requiring all claims to be raised in one timely filed petition. *In re Reno*, (2012) 55 Cal. 4th 428, 454; *In re Clark*, (1993) 5 Cal. 4th 750, 767-68; *In re Horowitz* (1949) 33 Cal. 2nd 534, 546-47.

For all the foregoing indicated reasons, the petition is DENIED.

The Clerk is ordered to serve a copy of this memorandum upon the Petitioner and upon the District Attorney (Habeas Corpus Litigation Team), 320 West Temple Street, Room 540, Los Angeles, California 90012.

Dated: April 19, 2023

/s/: _____
HON. MICHAEL TERRELL, Judge of the
Superior Court of California

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California Code, Penal Code - Section 12022.53
Current as of January 01, 2023 | Updated by
FindLaw Staff.

**Use of firearm in commission of a felony;
discharge; injury.**

(a) This section applies to the following felonies:

- (1) Section 187 (murder)
- (2) Section 203 or 205 (mayhem)
- (3) Section 207, 209, or 209.5 (kidnapping)
- (4) Section 211 (robbery).
- (5) Section 215 (carjacking).
- (6) Section 220 (assault with intent to commit a specified felony).
- (7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or firefighter).
- (8) Section 261 or former section 262 (rape).
- (9) Section 264.1 (rape or sexual penetration in concert).
- (10) Section 286 (sodomy).
- (11) Section 287 or former Section 288a (oral copulation).
- (12) Section 288 or Section 288.5 (lewd act on a child).
- (13) Section 28 (sexual penetration).
- (14) Section 4500 (assault by a life prisoner).
- (15) Section 4501 (assault by a prisoner).
- (16) Section 4503 (holding a hostage by a prisoner).
- (17) Any felony punishable by death or imprisonment in the state prison for life.
- (18) Any attempt to commit a crime listed in this subdivision other than an assault.

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(b) Notwithstanding any other law, a person who, in the commission of a felony specified in subdivision (a), personally uses a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 10 years. The firearm need not be operable or loaded for this enhancement to apply.

(c) Notwithstanding any other law, a person who, in the commission of a felony specified in subdivision (a), personally and intentionally discharges a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 20 years.

(d) Notwithstanding any other law, a person who, in the commission of a felony specified in subdivision (a), Section 246, or subdivision (c) or (d) of Section 26100, personally and intentionally discharges a firearm and proximately causes great bodily injury, as defined in Section 12022.7, or death, to a person other than an accomplice shall be punished by an additional and consecutive term of imprisonment in the state prison for 25 years to life.

(e)(1) The enhancements provided in this section shall apply to any person who is a principal in the commission of an offense if both of the following are pled and proved:

(A) The person violated subdivision (b) of Section 186.22.

(B) Any principal in the offense committed any act specified in subdivision (b), (c), or (d).

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(2) An enhancement for participation in a criminal street gang pursuant to Chapter 11 (commencing with section 186.20 of Title 7 of Part 1) shall not be imposed in addition to an enhancement imposed pursuant to this subdivision unless the person personally used or personally discharged a firearm in the commission of the offense.

(f) Only one additional term of imprisonment under this section shall be imposed per person per crime. If more than one enhancement per person is found true under this section, the court shall impose upon that person the enhancement that provides the longest term of imprisonment. An enhancement involving a firearm specified in sections 12021.5, 12022, 12022.3, 12022.4, 12022.5, or 12022.55 shall not be imposed upon a person in addition to an enhancement imposed pursuant to this section. An enhancement for great bodily injury as defined in section 12022.7, 12022.8, or 12022.9 shall not be imposed upon a person in addition to an enhancement imposed pursuant to subdivision (d).

(g) Notwithstanding any other law, probation shall not be granted to, nor shall the execution or imposition of the sentence be suspended for, a person found to come within provisions of this section.

(h) The court may, in the interest of justice pursuant to Section 1385 and at the time of sentencing, strike or dismiss an enhancement otherwise required to be imposed by this section. The authority provided by this subdivision applies to any

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resentencing that may occur pursuant to any other law.

(i) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or any other law shall not exceed 15 percent of the total term of imprisonment imposed on a defendant upon whom a sentence is imposed pursuant to this section.

(j) For the penalties in this section to apply, the existence of any fact required under subdivision (b), (c), or (d) shall be alleged in the accusatory pleading and either admitted in open court or found to be true by the trier of fact. When an enhancement specified in this section has been admitted or found to be true, the court shall impose punishment for that enhancement pursuant to this section rather than imposing punishment authorized under any other law, unless another enhancement provides for a greater penalty or a longer term of imprisonment.

(k) When a person is found to have used or discharged a firearm in the commission of an offense that includes an allegation pursuant to this section and the firearm is owned by that person, a co-participant, or a coconspirator, the court shall order that firearm be deemed a nuisance and disposed of in the manner provided in sections 18000 and 18005.

(l) The enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in section 196 or by

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any person in lawful self-defense, lawful self-defense of another or lawful self-defense of property as provided in sections 197,198, and 198.5.

<https://codes.findlaw.com/ca/penal-code/pen-sect-12022.53/>