

SUPREME COURT
FILED

Court of Appeal, First Appellate District, Division Three - No. A173565 OCT - 1 2025

S292691

Jorge Navarrete Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re CHRISTOPHER J. GREGORY on Habeas Corpus.

The petition for review is denied.

GUERRERO
Chief Justice

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

In re CHRISTOPHER GREGORY on
Habeas Corpus.

A173565

(Del Norte County
Super. Ct. No. CRF179008)

BY THE COURT:*

The court on its own motion ordered a copy of the petition for writ of habeas corpus and related documents submitted in Del Norte County Superior Court case no. HC245045. (Cal. Rules of Court, rule 8.385(a).) The clerk of this court is directed to file a copy of the aforementioned documents in this case (A173565), and to serve the documents on all parties to this petition.

The petition does not satisfy the statutory requirements for the appointment of counsel under the Racial Justice Act. Petitioner did not allege specific facts that would establish a violation of the Racial Justice Act. (Pen. Code, § 1473, subd. (e) [providing for the appointment of counsel for an indigent petitioner who alleges facts that would establish a violation of the Racial Justice Act]; *McIntosh v. Superior Court* (2025) 110 Cal.App.5th 33, 46.)

The petition also fails to make a *prima facie* showing of entitlement to relief under the Racial Justice Act. (Pen. Code, § 1473, subd. (e).) Petitioner has not alleged specific facts that would entitle him to such relief, nor did petitioner describe or attach documentary evidence in support of a Racial Justice Act claim. (See Pen. Code, § 1473, subd. (e) [requiring *prima facie* showing of entitlement to relief]; *McIntosh, supra*, at p. 45; cf. *In re Swain* (1949) 34 Cal.2d 300, 304 [petition for writ of habeas corpus must allege sufficient facts with particularity]; *People v. Duvall* (1995) 9 Cal.4th 464, 474 [petition for writ of habeas corpus must include copies of reasonably available documentary evidence].)

Petitioner's request for discovery regarding when his Welfare and Institutions Code section 7301 transfer paperwork was filed is denied, as the

* Tucher, P.J., Fujisaki, J., and Rodríguez, J.

request does not relate to any Racial Justice Act claim. (See Pen. Code, § 745, subd. (d) [allowing for discovery of "evidence relevant to a potential violation of subdivision (a) in the possession or control of the state"]; cf. Pen. Code, § 745, subd. (a) [prohibiting state from seeking or obtaining a conviction on the basis of race, ethnicity, or national origin].)

The rest of petitioner's claims are denied for failure to articulate a *prima facie* case for relief and to include copies of reasonably available documents in support of the claims. (*In re Swain, supra*, at pp. 303-304 [vague, conclusionary allegations are insufficient to warrant issuance of writ of habeas corpus]; *Duvall, supra*, at p. 474.)

The petition for writ of habeas corpus is denied.

Dated: August 13, 2025

Tucher, P.J.
Presiding Justice

Related to Transfer

CANNOT GO TO PRISON

People v. Juarez, (1986) 184 Cal.App.3d 570

575 (An individual found not guilty by reason of insanity is not subject to punishment in prison but rather must be committed to a State hospital for treatment). (§1026; People v. Buttes, (1982) 134 Cal.App.3d 116, 122.)

People v. Buttes, (1982) 134 Cal.App.3d 116

122 ("[A] person who has been acquitted by reason of insanity...[has been] found not guilty of committing the crime and cannot be punished by incarceration in prison (Pen. Code, § 1026)...[T]he insane defendant can never be sent to a prison....")

People v. Chavez, (2008) 160 Cal.App.4th 882

897 ("[A] defendant who is convicted of certain crimes and acquitted by reason of insanity as to others and whose sanity has not been restored fully at the time of sentencing must first be committed to a state hospital for the care and treatment of the mentally disordered").

Sandin v. Conner, (1995) 515 U.S. 472 [115 S.Ct. 2293, 132 L.Ed.2d 418]

484 (holding that a state-created liberty interest in one's classification may exist where classification imposes "atypical and significant hardship").

Welf. & Inst. Code §5303 ("...Until a final decision on the merits by the trial court the person named in the petition shall continue to be treated in the intensive treatment facility....")

INSANITY MEANS NOT GUILTY

People v. Hernandez, (2000) 22 Cal.4th 512 [93 Cal.Rptr.2d 509, 994 P.2d 354]

523-24 ("Nor is trial of the insanity plea a separate action; the sanity proceedings are 'but a part of the same criminal proceeding' as the guilt trial", quoting People v. Flores, (1976) 55 Cal.App.3d 118, 122).

524 ("The fact that it is conducted in a separate proceeding and that the defendant bears the burden of proof does not convert it into a separate criminal or civil action. 'Trying the issue of alleged insanity of a person who is charged with a crime is not a separate trial In the eyes of the law there is only one trial even though it is divided into two sections or stages if insanity is pleaded as a defense'

", quoting
People v. Villarreal,
(1985) 167 Cal.App.3d 450, 458 [213 Cal.Rptr. 179]

TREATMENT, NOT PUNISHMENT

A commitment to a State hospital under section 1026 is "in lieu of criminal punishment" (In re Moyer, (1978) 22 Cal.3d 457, 463) and "is for purposes of treatment, not punishment". (*Idem* at 466.)

Foucha v. Louisiana, (1992) 504 U.S. 71

-- ("A State, pursuant to its police power, may of course imprison convicted criminals for the purposes of deterrence and retribution...Here, the State has no such punitive interest. As Foucha was not convicted, he may not be punished").

People v. Dobson, (2008) 74 Cal.App.4th 238

— ("A successful insanity plea relieves the defendant of all criminal responsibility. (People v. Jantz (2006) 137 Cal.App.4th 1283, 1295, 40 Cal.Rptr.3d 875.) The commitment of the defendant to a state hospital 'is in lieu of criminal punishment and is for the purpose of treatment, not punishment. [Citation.]' (People v. Superior Court (Williams) (1991) 233 Cal.App.3d 477, 485, 284 Cal.Rptr. 601 (Williams .).")).

TRANSFER

Christy v. Hammel, (M.D. Pa. 1980) 87 F.R.D. 381

(Transfer to maximum security triggered plaintiff's liberty interests under Due Process Clause which would mandate minimal procedural safeguards).

REMOVAL OF PATIENT PRIVILEGES

Weighing the patient's interest in yard, commissary, visiting and other similar privileges against the State's interest in maintaining an orderly, secure and rehabilitative environment for all patients, courts conclude that the minimum due process safeguards which must be afforded prior to the withdrawal of patient privileges are: (1) notice (oral or written) of the intent to remove one or more privileges, afforded at a reasonable time prior to the hearing; (2) a hearing before someone other than the complainant, at which the patient may testify; and (3) a written statement of the grounds for removal of the privileges. (Clutchette v. Procunier, (9th Cir. 1974) 510 F.2d 613, 615; Craig v. Hocker, (D.C. Nev. 1975) 405 F.Supp. 656, 662; Davis v. Balson, (N.D. Ohio 1978) 461 F.Supp. 842, 877-78.)