

IN THE SUPREME COURT OF CALIFORNIA

En Banc

Loree Navarrete Clerk

Deputy

In re ERIC JEROME PHILLIPS, JR., on Habeas Corpus.

The petition for writ of habeas corpus has been read and considered. Petitioner contends, among other claims, that he is entitled to relief under the Racial Justice Act of 2020 (Pen. Code, § 745). In this respect, petitioner claims that because he is African American, the superior court imposed unaffordable bail and denied him his right to self-representation. Petitioner also alleges that he was charged or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, that prosecutors in Riverside County more frequently sought or obtained convictions for more serious offenses against people who share his race, ethnicity, or national origin, that he received a longer or more severe sentence compared to similarly situated individuals convicted of the same offense and longer or more severe sentences were more frequently imposed for the same offense on defendants who share petitioner's race, ethnicity, or national origin than on others in Riverside County, and longer or more severe sentences were more frequently imposed for the same offense on defendants in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins in Riverside County.

Petitioner "has not established a prima facie showing of entitlement to relief" at this time. (Pen. Code, § 1473, subd. (e).) Petitioner fails to allege particularized facts that support his claims based on alleged exhibitions of racial bias or that support a claim that petitioner was charged, convicted, or sentenced in a more severe manner than similarly situated individuals of other races, ethnicities, or national origins. (*Id.*, § 745, subd. (a)(1), (3)-(4).) Nor does petitioner describe or attach relevant supporting documentary evidence concerning these claims.

Petitioner also seeks disclosure of discovery under the Racial Justice Act to obtain evidence supporting his claims. (See Pen. Code, §§ 745, subd. (d), 1473, subd. (e).) We granted review in *In re Montgomery*, S287339 (*Montgomery*) to consider issues related to discovery requests under the Racial Justice Act. Because our resolution of the issues presented in *Montgomery* may affect the availability of discovery under the Racial Justice Act, which may in turn affect the ability of a petitioner to plead claims under that statute, the petition for writ of habeas corpus and discovery request are denied without prejudice to any relief to which petitioner might be entitled after this court decides *Montgomery*. (See Pen. Code, § 1473, subd. (e) ["A petition raising a claim [under the Racial Justice Act] on the basis of new discovery provided by the state or other new evidence that could not have been previously known by the petitioner with due diligence, shall not be deemed a successive or abusive petition"].)

APPENDIX A
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GUERRERO
Chief Justice

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