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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

JERRY AUGUSTA BLUITT,

Petitioner,

v.

THE SUPERIOR COURT OF LOS  
ANGELES COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

B270362

(Super. Ct. No. YA080766)

ORIGINAL PROCEEDING; mandate petition. Hector M. Guzman, Judge.

Petition granted.

Jerry Augusta Bluitt, in pro. per., for Petitioner.

No appearance for Respondent.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Susan Sullivan Pithey, Supervising Deputy Attorney General, and Mary Sanchez, Deputy Attorney General, for Real Party in Interest.

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The court has read and considered the mandate petition of defendant, Jerry Augusta Bluitt, and the informal response by the Attorney General. The Attorney General concedes that defendant is entitled to the appointment of an attorney. In light of this concession, issuance of a peremptory writ in the first instance is appropriate. (Code of Civ. Proc., § 1088; *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.) Accordingly, the mandate petition is granted.

Defendant filed two written requests with the respondent court stating that: he is presently confined for an offense he did not commit; deoxyribonucleic acid testing is relevant to his assertion of innocence; he is indigent; and he has not previously requested appointment of counsel to pursue a motion for deoxyribonucleic acid testing. Therefore, defendant has stated a prima facie basis for appointment of counsel. The respondent court was required by Penal Code section 1405, subdivision (b)(1) to appoint an attorney to prepare a motion for performance of deoxyribonucleic acid testing, if appropriate.

Let a peremptory writ of mandate issue directing the respondent court to vacate its January 15, 2016 order. Upon remittitur issuance, the respondent court shall appoint counsel to investigate the appropriateness of deoxyribonucleic acid testing as to defendant.

TURNER, P. J.

We concur:

KRIEGLER, J.

KUMAR, J.\*

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.