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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

CHRISTOPHER GEIER,

Petitioner,

v.

THE SUPERIOR COURT OF
SAN BERNARDINO COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

E057604

(Super.Ct.No. RCR20413)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. Stephan G. Saleson,
Judge. Petition granted.

Sean K. Kennedy, Federal Public Defender, Lauren Collins, Jennifer Hope Turner,
Deputy Federal Public Defenders; Coffin Law Group and Lynne S. Coffin for Petitioner.

No appearance for Respondent.

Michael A. Ramos, District Attorney, and Brent J. Schultze, Deputy District Attorney, for Real Party in Interest.

DISCUSSION

In this matter, we have reviewed the petition, the response filed by real party in interest, and petitioner’s reply. We have determined that resolution of the matter involves the application of settled principles of law, and that issuance of a peremptory writ in the first instance is therefore appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

Petitioner’s basic entitlement to postconviction discovery under Penal Code section 1054.9 is clear. Even applying the “good cause” requirement, the statute only requires petitioner to show that the requested evidence is material to his “*effort to obtain relief.*” (Pen. Code, § 1054.9, subd. (c), italics added.) He is not required to demonstrate that it will in fact be exculpatory.

We respectfully disagree with the trial court’s view that this request may be rejected because a similar substantive argument, to that which he now seeks to support, has been rejected by the Supreme Court in a previous habeas corpus petition. The distinction between this case and *Hurd v. Superior Court* (2006) 144 Cal.App.4th 1100, is that in *Hurd*, the court was applying a similar procedural bar—based on its own prior decision—to a case currently pending before it.

Here, the current and any future habeas corpus petitions are for the Supreme Court to decide. In our view, it is improper for a lower court to base its denial on the determination that petitioner’s claims *will be held barred by the Supreme Court*. It is not

impossible for that court to consider petitioner's claims on the merits despite previous attempts to raise similar issues. Accordingly, the claims should not be preemptively ruled to be barred by a lower court.

DISPOSITION

Accordingly, the petition for writ of mandate is granted. Let a peremptory writ of mandate issue, directing the Superior Court of San Bernardino County vacate its order denying petitioner's motion for postconviction discovery and to enter a new order granting said motion.

Petitioner is directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties.

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KING
J.

We concur:

RAMIREZ
P. J.

McKINSTER
J.