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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

MACIO L. LINDSEY,

Petitioner,

v.

THE SUPERIOR COURT OF  
SAN BERNARDINO COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

E057941

(Super.Ct.No. SCR55919)

OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. R. Glenn Yabuno,  
Judge. Petition granted.

Macio L. Lindsey, in pro. per., for Petitioner.

No appearance for Respondent.

Michael A. Ramos, District Attorney, and Cameron Page, Deputy District  
Attorney, for Real Party in Interest.

## INTRODUCTION

In this matter we have reviewed the petition and offered real party the opportunity to file opposition; real party agrees that petitioner is entitled to relief. Accordingly, 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.)

## DISCUSSION

Petitioner is serving a life term and is therefore qualified to receive post-conviction discovery pursuant to Penal Code section 1054.9. It is immaterial that he has not yet filed a petition for habeas corpus; he may seek discovery in order to pursue the possibility of such a petition. (*In re Steele* (2004) 32 Cal.4th 682.) We express no opinion on whether petitioner's delay in seeking relief will bear upon the proper disposition of any habeas corpus petition. (See *Catlin v. Superior Court* (2011) 51 Cal.4th 300.)

Accordingly, the trial court's stated basis for denying the request for discovery was in error, and the request should have been considered on the merits.

## DISPOSITION

Let a peremptory writ of mandate issue directing the Superior Court of San Bernardino County to vacate its order denying the request for post-conviction discovery and to set the matter for duly noticed hearing.

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. In the interests of justice and in accordance with the People's

acquiescence, this order shall be final forthwith.

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HOLLENHORST  
Acting P. J.

We concur:

MILLER  
J.

CODRINGTON  
J.