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

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

ABEL GARCIA,

Petitioner,

v.

THE SUPERIOR COURT OF  
RIVERSIDE COUNTY,

Respondent;

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION,

Real Party in Interest.

E058107

(Super.Ct.No. BLC1100334)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. Sarah Adams  
Christian, Judge. Petition granted.

Abel Garcia, in pro. per., for Petitioner.

No appearance for Respondent.

No appearance for Real Party in Interest.

## DISCUSSION

The Court has read and considered the petition for writ of mandate/habeas corpus. We have invited the respondent court to file an informal response, but it has declined to do so. Accordingly, we will grant the petition.

Petitioner is an inmate in the custody of the California Department of Corrections and Rehabilitation. He filed a petition for writ of mandate in respondent court that raises issues relating to his criminal conviction. The respondent court required petitioner to pay a filing fee, directing the director of the California Department of Corrections and Rehabilitation to make deductions from petitioner's inmate trust account until the filing fee of \$410 is paid in full. Although even indigent inmates are required to make partial payments of filing fees in civil actions (Gov. Code, § 68635), petitioner in this instance is challenging certain aspects of his criminal conviction. A petition raising such issues is properly considered a habeas corpus proceeding for which no filing fees can be required. (Gov. Code, § 6101.) Thus, the respondent court erred in requiring petitioner to pay filing fees, even though petitioner called his petition one for mandate relief (cf. *Bravo v. Cabell* (1974) 11 Cal.3d 834).

## DISPOSITION

The Riverside County Superior Court is directed to set aside its order of November 15, 2011, requiring petitioner to pay filing fees and directing the director of the Department of Corrections and Rehabilitation to make deductions from petitioner's trust account for this purpose.

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.

Appellate Defenders, Inc., is appointed counsel to represent petitioner in this matter.

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RICHLI  
J.

We concur:

KING  
J.

RAMIREZ  
P. J.