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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF PLACER

DEC 13 2022

JAKE CHATTERS  
EXECUTIVE OFFICER & CLERK  
By: J. Perez, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF PLACER

In re Petition of Habeas Corpus of,  
  
SHAWN RODRIGUEZ,  
Petitioner.

Cases: 62-034689A

ORDER DENYING PETITION  
FOR WRIT OF HABEAS CORPUS

On October 6, 2003, the petitioner was convicted by a jury of kidnapping for extortion, vehicle theft, conspiracy to commit murder, and two counts of identity theft. On December 5, 2003, the petitioner was sentenced to state prison for a term of 25 years to life. The petitioner appealed and the judgment was affirmed by the court of appeal in an unpublished opinion dated January 4, 2005.

On July 24, 2015, the petitioner filed a petition for writ of habeas corpus alleging that, in a letter dated February 15, 2015, the victim (Nicholas Hamman) recanted part of his trial testimony and admitted to committing perjury. During the trial, Hamman testified that he was locked in a room that was filling with water and that the water rose to the level of his neck. In the letter, Hamman admitted that he lied at the trial about the level of the water and that the water actually only reached his thighs. The court issued an order to show cause and an evidentiary hearing took place

1 on July 20, 2016 before the Honorable Mark S. Curry. Judge Curry issued a  
2 written ruling on September 9, 2016, denying the petition for writ of habeas  
3 corpus. On October 17, 2022, the petitioner filed a second petition for writ  
4 of habeas corpus renewing his request for relief based on recent changes in  
5 the law set forth in Penal Code § 1473(b)(3) related to newly discovered  
6 evidence.

7 The petitioner bears a heavy burden to first plead sufficient grounds  
8 for relief. *Younan v. Caruso* (1996) 51 Cal.App.4th 401, 407; *In re Lucas*  
9 (2004) 33 Cal.4th 682, 694; *People v. Duvall* (1995) 9 Cal.4th 464, 474.

10 The petition should both state with particularity the facts on which relief is  
11 sought and include copies of reasonably available documentary evidence  
12 supporting the claim. Conclusory allegations made without any explanation  
13 of the basis for the allegations do not warrant relief. *People v. Duvall*, at  
14 474. Vague or conclusory allegations without factual support are  
15 insufficient. *In re Swain* (1949) 34 Cal.2d 300, 304.

16 When Rodriguez's first petition was filed, the standard for granting  
17 habeas relief for newly discovered evidence was whether the new evidence  
18 completely undermined the prosecutor's case and pointed unerringly to  
19 innocence. *In re Johnson* (1998) 18 Cal.4th 447, 462. Now, the standard for  
20 habeas relief is whether the new evidence would have more likely than not  
21 changed the outcome of the trial. Penal Code § 1473(b)(3).

22 The court finds that the change in this law does not establish a prima  
23 facie showing for relief in this case. When the previous petition for writ of  
24 habeas corpus was denied in 2016, Judge Curry applied a standard much  
25 more favorable to the petitioner than either the old or new standard for  
26 habeas relief. Judge Curry applied the standard applicable to motions for  
27 new trial set forth in *People v. Soojian* (2010) 190 Cal.App.4th 491, which  
28 entitles a defendant to relief if it is reasonably probable that at least one

1 juror would have voted not guilty had the new evidence been presented. As  
2 the *Soojian* court explained, the "reasonably probable" standard is much  
3 lower and more favorable to the petitioner than the "more likely than not"  
4 standard now set forth in section 1473(b)(3). "[A] probability in this context  
5 does not mean more likely than not, but merely a reasonable chance, more  
6 than an abstract possibility." *Id.* at 519. The court further finds that the  
7 interview conducted of Hamman by attorney Marc Eric Norton on July 31,  
8 2022 does not constitute new evidence within the meaning of Penal Code §  
9 1473(b)(3), but merely reaffirmed the same information set forth in the  
10 2015 letter.

11 The petitioner also contends that "the court file in this case" contains  
12 affidavits from inmates Thurl Light, Anaal-Rad Guinn, and Jose Witrigo,  
13 confirming that Hamman lied about facts in the case, and that the trial court  
14 failed to give the affidavits "plenary consideration." The alleged affidavits  
15 were not attached to the petition, the dates of affidavits were not provided  
16 to the court, and the context in which the affidavits were previously  
17 reviewed by a court was not clarified in the petition. The court finds  
18 allegations regarding the affidavits to be vague and unclear and do not  
19 constitute a prima facie showing for relief.

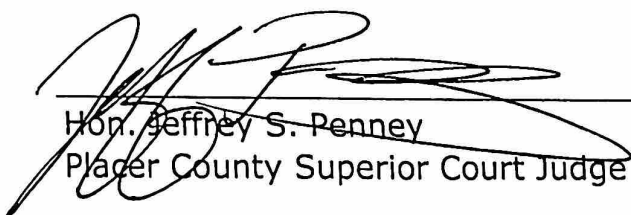
20 The petitioner attached two questionnaires completed by two jurors  
21 after the trial in 2003. In the questionnaires, the jurors indicated that they  
22 were confused by some of the jury instructions and thought the sentence  
23 was too harsh. Issues that could have been raised on appeal cannot be  
24 presented in a writ of habeas corpus absent strong justification. *In re Harris*  
25 (1993) 5 Cal.4<sup>th</sup> 813, 829. The questionnaires were completed in 2003 and  
26 the court finds that no prima facie showing has been made demonstrating a  
27 strong justification for this issue being raised at this time. Moreover, a  
28

1 juror's opinion of punishment is not a proper ground for relief. CALCRIM  
2 3550.

3 The petitioner also alleges that he is entitled to relief because the  
4 Legislature eliminated the natural and probable consequences doctrine as a  
5 theory of liability for murder and attempted murder in Senate Bill 775 (SB-  
6 775) and Senate Bill 1437 (SB-1437). Although the jury in this case was  
7 instructed on the natural and probable consequences theory of liability, the  
8 petitioner was not convicted of murder or attempted murder. The petitioner  
9 was convicted of conspiracy to commit murder. The changes in the law set  
10 forth in SB-775 and AB-1437 do not apply to conspiracy to commit murder.  
11 *People v. Medrano* (2021) 68 Cal.App.5<sup>th</sup> 177. Accordingly, the petitioner  
12 has not established a prima facie case for habeas relief based on these  
13 changes in the law.

14 For the reasons set forth above, the petition is summarily denied.

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16 Date: 12/13/22

  
17 Hon. Jeffrey S. Penney  
18 Placer County Superior Court Judge  
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**SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF PLACER**

**CLERK'S CERTIFICATE OF MAILING (C.C.P. §1013a(4))**

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**Case number: 62-034689A**

**Case name: In Re: Shawn Rodriguez**

I, the undersigned, certify that I am the clerk of the Superior Court of California, County of Placer, and I am not a party to this case.

I mailed copies of the document(s) indicated below:

**ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS**

True copies of the documents were mailed following standard court practices in a sealed envelope with postage fully prepaid, addressed as follows:

**Placer County District Attorney  
10810 Justice Center Drive, Suite 240  
Roseville, CA 95678**

**Placer County Public Defender  
3785 Placer Corporate Dr., Ste. 550  
Rocklin, CA 95765**

**Office of the Attorney General  
Writ Department  
1300 I Street, Suite 1101  
PO Box 944255  
Sacramento, CA 94244-2560**

**Shawn Rodriguez – ID #V16387  
California Men's Colony  
P.O. Box 8103  
San Luis Obispo, CA 93409**

I am readily familiar with the court's business practices for collecting and processing correspondence for mailing; pursuant to those practices, the documents are delivered to

☒ the US Postal Service

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☐ Other (via email)

On December 14, 2022, Placer County, California

Dated: December 13, 2022

JAKE CHATTERS

Clerk of the Placer County Superior Court

By: 

J. Perez, Deputy Clerk