

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

ACIS Case No.: JUDGE: BOB N. KRUG DATE: 12/26/01 TIME: --

CASE NO.: SWHSS-5092 CLERK: V. GAYTON COUNSEL: In Pro Per

DEPT.: S16 BAILIFF: --

REPORTER: --

CASE TITLE: In the Matter of the Application of
JUSTIN RUEB on Habeas Corpus

NATURE OF PROCEEDINGS:

ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS

MINUTE ORDER:

The Petition filed herein on December 19, 2001 attempts to raise issues heretofore considered by the court in denying a previous Petition on December 14, 2001.

Successive and untimely Petitions will be summarily denied absent justification for not presenting in a single Petition all claims or facts which, if proven, establish a fundamental miscarriage of justice. In Re Clark, 5 Cal.4th 750. No such showing has been made here. All grounds and contentions are to be presented in the first and in a single Petition. In re Horowitz, 33 Cal.2d 534, 546.

In this supplemental Petition, petitioner raises additional contentions that he was prosecuted in California in violation of Penal Code Section 1389 in that he contends a detainer was sent by the State of California to Colorado in August of 1996. He further contends that he demanded a trial and that he was not tried until after the 180-day period had expired.

The documents the petitioner has supplied with his Petition do not support his position. The letter from the Department of Corrections for the State of Colorado indicated that the petitioner desired to be returned to California for prosecution on the cases pending there. That letter is dated January 7, 1998. The letter further states, "There is no active detainer lodged with this department." The Petition also contained a letter dated July 8, 1998 from the District Attorney of San Bernardino County in which it requested a detainer against the petitioner be placed. Petitioner's own exhibits clearly show that his case was disposed of sometime before the end of 1998 and well within the 180-day period.

I certify that copies of the above Order were mailed to counsel of record as indicated on _____.

Court Clerk

The remaining issues raised are without support and without merit. As to the issue of the Court in Colorado using his California convictions to enhance his sentence, this is a matter for the Colorado Court and not California. Additionally, his position on that issue is in error. A prior conviction is a sentence consideration. Therefore, if the conviction was prior to the trial and sentence of the present crime, it is eligible to be alleged as a prior.

The Petition is DENIED.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

SAN BERNARDINO DISTRICT

TITLE OF CASE (ABBREVIATED): In the Matter of the Application of
JUSTIN RUEB on Habeas Corpus

CASE NUMBER: SWHSS-5092

DECLARATION OF SERVICE BY MAIL

My business address is: Third Floor, Courthouse, 351 North Arrowhead Avenue, San Bernardino, California 92415-0240.

I hereby declare that I am a citizen of the United States, over the age of 18, employed in the above-named county, and not a party to nor interested in this proceeding.

On December 26, 2001, I deposited in the United States mail at San Bernardino, California, a sealed envelope (postage repaid) which contained a true copy of the attached: **ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS** which was addressed as follows:

Name and Address of Persons Served:

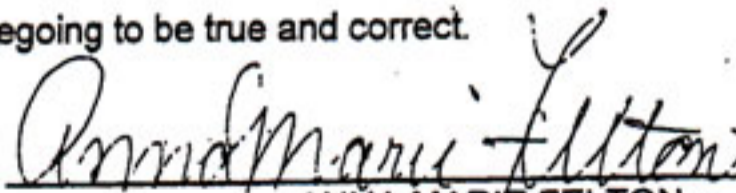
JUSTIN RUEB, #94567
Unit A3, 27
Colorado State Prison
P.O. Box 777
Canon City, CO 81215

At the time of mailing this notice there was regular communication between the place of mailing and the place(s) to which this notice was addressed.

I declare under penalty of perjury the foregoing to be true and correct.

DATED: December 26, 2001

BY



ANNA MARIE FELTON
Secretary