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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re LAWRENCE GOMES,
on Habeas Corpus.

B232036

(Los Angeles County
Super. Ct. No. BA122204)

APPEAL from an order of the Superior Court of Los Angeles County.

Bob S. Bowers, Judge. Appeal considered as writ of habeas corpus and denied.

Lawrence Gomes, in pro. per.; Mark S. Givens, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Lawrence Gomes appeals from the denial of his petition for a writ of *coram nobis*. The denial of a writ of *coram nobis* is not an appealable order where, as here, the petition fails to state a prima facie case for *coram nobis* relief. (*People v. Gallardo* (2000) 77 Cal.App.4th 971, 982-983 [dismissing appeal from denial of *coram nobis* petition].) Petitioner's request to withdraw his true plea to two prior convictions because the prosecutor incorrectly advised him of the consequences of this plea, however, may be considered as a petition for a writ of habeas corpus and we so consider it. (See *People v. Segura* (2008) 44 Cal.4th 921, 928, fn. 4.)

Assuming that defendant's claim of misadvisement is correct, he still must show prejudice. This he has not done. Therefore, even treating his appeal as a petition for habeas corpus, the petition must be denied.

DISPOSITION

The petition is denied without prejudice.

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ROTHSCHILD, J.

We concur:

MALLANO, P. J.

CHANEY, J.