

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

EDWARD JAMES MOUTON,	)	CASE NO. CV 15-9952-VBF (PJW)
	)	
Petitioner,	)	ORDER TO SHOW CAUSE WHY PETITION
	)	SHOULD NOT BE DISMISSED
v.	)	
	)	
D. PARAMO,	)	
	)	
Respondent.	)	
	)	


16           On December 21, 2015, Petitioner filed a Petition for Writ of  
17 Habeas Corpus, challenging a September 11, 2007 conviction for second  
18 degree robbery with gang and firearm allegations and resultant 16-year  
19 sentence. (Petition at 2.) Petitioner contends that his sentence is  
20 illegal, he entered a no contest plea based on "unintelligible" advice  
21 from his counsel, and he was denied the effective assistance of  
22 counsel. (Petition at 5-6.) For the following reasons, Petitioner is  
23 ordered to show cause why his Petition should not be dismissed because  
24 it is time-barred.

25           State prisoners seeking to challenge their state convictions in  
26 federal habeas corpus proceedings are subject to a one-year statute of  
27 limitations. 28 U.S.C. § 2244(d). Here, Petitioner's conviction  
28 became final on November 12, 2007--60 days after he was sentenced and

1 the time expired for him to file an appeal.<sup>1</sup> See *Mendoza v. Carey*,  
2 449 F.3d 1065, 1067 (9th Cir. 2006); *Lewis v. Mitchell*, 173 F. Supp.  
3 2d 1057, 1060 (C.D. Cal. 2001). Therefore, the statute of limitations  
4 expired one year later, on November 12, 2008. Petitioner, however,  
5 did not file this Petition until December 21, 2015, more than seven  
6 years after the deadline.<sup>2</sup>

7 IT IS THEREFORE ORDERED that, no later than **February 5, 2016**,  
8 Petitioner shall inform the Court in writing why this case should not  
9 be dismissed with prejudice because it is barred by the statute of  
10 limitations. Failure to timely file a response will result in a  
11 recommendation that this case be dismissed.

12 DATED: January 5, 2016

13  
14 

15 

---

PATRICK J. WALSH  
16 UNITED STATES MAGISTRATE JUDGE  
17  
18  
19  
20

21 S:\PJW\Cases-State Habeas\MOUTON, E 9952\OSC dismiss pet.wpd  
22

23 <sup>1</sup> Because the sixtieth day after he was sentenced was a  
24 Saturday, Petitioner had until Monday 12 November, 2007, to file the  
petition. Fed. Rules of Civ. Pro. Rule 6(a).

25 <sup>2</sup> Petitioner failed to sign or date the Petition. He did,  
26 however, sign and date the proof of service that he attached to the  
27 Petition, which date the Court assumes is the day he delivered the  
28 Petition for filing pursuant to the "mailbox rule" and, therefore,  
uses as the filing date. See *Houston v. Lack*, 487 U.S. 266, 275-76  
(1988).