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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ISIDRO CASTRO,)	1:11-cv-00441-SKO-HC
)	
Petitioner,)	ORDER DISCHARGING ORDER TO SHOW
)	CAUSE (DOC. 7)
)	
v.)	ORDER GRANTING PETITIONER'S
)	MOTION FOR EXTENSION OF TIME TO
B. M. CASH, Warden,)	INFORM THE COURT CONCERNING
)	CLAIMS RAISED AND EXHAUSTION OF
Respondent.)	STATE COURT REMEDIES (DOCS. 8, 5)
)	
)	DEADLINE FOR PETITIONER'S
		RESPONSE:
		FORTY-FIVE (45) DAYS

Petitioner is a state prisoner proceeding pro se and in forma pauperis with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter has been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rules 302 through 304. Pending before the Court is the petition, which was filed on March 16, 2011.

By order filed and served on Petitioner by mail on March 28, 2011, the Court directed Petitioner to inform the Court if he was attempting to raise a claim concerning the ineffective assistance of counsel and, if so, to show the Court that he had presented

1 the claim to the California Supreme Court and thus had exhausted
2 his state court remedies as to the claim. The order expressly
3 warned Petitioner that failure to follow the order would result
4 in dismissal of the petition pursuant to Local Rule 110.

5 When Petitioner failed to respond to the Court's order, the
6 Court issued an order to Petitioner on May 17, 2011, to show
7 cause why the case should not be dismissed for Petitioner's
8 failure to respond. Petitioner has now filed a motion for an
9 extension of time to respond. (Doc. 8.) Petitioner has
10 explained that he was out to court. Thus, because Petitioner was
11 out to court, the Court will discharge the order to show cause
12 why the case should not be dismissed, and the Court will give
13 Petitioner another opportunity to respond to the Court's order
14 concerning his claim about his trial counsel.

15 The Court will grant Petitioner forty-five (45) days within
16 which to write the Court and inform the Court whether or not he
17 intended to allege in this case a claim that his trial counsel
18 was ineffective because of sleeping through proceedings. If
19 Petitioner wants to raise such a claim in this case, he should so
20 state and should further inform the Court if he raised this claim
21 before the California Supreme Court and thus exhausted his state
22 court remedies as to the claim concerning counsel. If Petitioner
23 did not raise his claim concerning counsel to the California
24 Supreme Court, he should inform this Court that he did not do so.
25 If Petitioner does not want to raise a claim concerning counsel
26 in this case, he should inform the Court.

27 Accordingly, it is ORDERED that:

28 1. The order to show cause issued on May 17, 2011, is

1 DISCHARGED; and

2 2. Petitioner is GRANTED until no later than forty-five (45)
3 days from the date of service of this order to write the Court
4 and inform the Court whether he is raising a claim concerning his
5 trial counsel and, if so, whether he raised this claim to the
6 California Supreme Court.

7 Petitioner is INFORMED that the failure to respond to this
8 order will result in dismissal of the action.

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11 IT IS SO ORDERED.

12 **Dated: June 13, 2011**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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