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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAURY DAVID MOORE

Petitioner,

No. 2: 11-cv-2718 CKD P

vs.

VAMIL SINGH,

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding *pro se* and in forma pauperis has filed a third amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The third amended petition alleges one claim of prosecutorial misconduct<sup>1</sup> and two claims of ineffective assistance of counsel.<sup>2</sup>

Since petitioner may be entitled to relief if the claimed violations of constitutional rights are proved, respondent will be directed to file a response to petitioner’s third amended

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<sup>1</sup> Petitioner divides his allegation of prosecutorial misconduct into two claims, but the allegation in both claims are substantially the same; petitioner alleges his right to due process was violated when the prosecutor made “repeated references that petitioner had been in custody during trial.” (Pet’r’s Third Am. Pet. at p. 4.) The parties should therefore address Ground One and Ground Two of the third amended petition as a single claim.

<sup>2</sup> The two claims of ineffective assistance of counsel are based on different allegations. Therefore, the parties should address those allegations as two separate claims.

1 habeas petition.

2 In accordance with the above, IT IS HEREBY ORDERED that:

3 1. Respondent is directed to file a response to petitioner's third amended habeas  
4 petition within sixty days from the date of this order. See Rule 4, 28 U.S.C. foll. § 2254. An  
5 answer shall be accompanied by all transcripts and other documents relevant to the issues  
6 presented in the third amended petition. See Rule 5, 28 U.S.C. foll. § 2254;

7 2. If the response to the third amended habeas petition is an answer, petitioner's  
8 reply, if any, shall be filed and served within thirty days after service of the answer;

9 3. If the response to the third amended habeas petition is a motion, petitioner's  
10 opposition or statement of non-opposition to the motion shall be filed and served within thirty  
11 days after service of the motion, and respondent's reply, if any, shall be filed and served within  
12 fourteen days thereafter; and

13 4. The Clerk of the Court shall serve a copy of this order and a copy of the third  
14 amended petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on Michael Patrick  
15 Farrell, Senior Assistant Attorney General.

16 Dated: August 27, 2012

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18 CAROLYN K. DELANEY  
19 UNITED STATES MAGISTRATE JUDGE  
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