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8	IN THE UNITED STATES DISTRICT COURT			
9	FOR THE NORTHERN DISTRICT OF CALIFORNIA			
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11	WILLIAM L. BIRD,		No. C 05-02454	MJJ
12	Petitioner,		ORDER TO SE	HOW CAUSE
13	V.			
14	JILL BROWN, Warden,			
15	Respondent.	/		
16				

Petitioner William L. Bird ("Petitioner") is currently serving a term of eight years at San Quentin State Prison in San Quentin, California, based on a state court conviction for second degree burglary and grand theft of personal property. Petitioner has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Petitioner challenged his conviction and sentence through to the California Supreme Court, without success. Petitioner now seeks federal habeas corpus relief, claiming that the trial court's determination that Petitioner's prior conviction was a "serious felony" subjecting him to a longer sentence violated his Sixth and Fourteenth Amendment rights. Petitioner claims that the court made a critical factual finding on an element of that prior crime that was never tried by a jury.

For the foregoing reasons and for good cause shown, it is hereby ordered that:

1. Respondent shall file and serve within sixty (60) days of the issuance of this Order, an answer conforming in all respects with Rule 5 of the Rules Governing Habeas Corpus Cases Under Section 2254, showing cause why a writ of habeas corpus should not issue; and

If Petitioner wishes to reply to the answer, he must do so by filing and serving a

traverse within thirty (30) days of his receipt of Respondent's answer.

IT IS SO ORDERED.

2.

Dated: June__29_, 2005

APPROVED Judge Martin J. Jenkins

MARTIN J. JENKINS UNITED STATES DISTRICT JUDGE

For the Northern District of California

United States District Court