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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 ENRIQUE ZAMORA SANCHEZ,) No. C 06-7310 JSW (PR)
9 Petitioner,)
10 vs.) **ORDER TO SHOW CAUSE**
11 JAMES TILTON, DIRECTOR,) (Docket No. 9)
12 CALIFORNIA DEPARTMENT OF)
13 CORRECTIONS AND)
14 REHABILITATION,)
15 Respondent.

16 **INTRODUCTION**

17 Petitioner, a prisoner of the State of California, has filed a habeas corpus petition
18 pursuant to 28 U.S.C. § 2254 challenging the constitutional validity of his state court
19 conviction. Petitioner has filed a motion to proceed *in forma pauperis* (docket no. 9),
20 which is now GRANTED. This order directs Respondent to show cause why the petition
21 should not be granted.

22 **BACKGROUND**

23 According to the petition, Petitioner was convicted after a jury trial in Santa Cruz
24 County Superior Court of multiple offenses, including driving under the influence and
25 child endangerment. He was sentenced to 6 years in state prison. Petitioner's appeal to the
26 California Court of Appeal was denied in 2005 and his petition for review in the California
27 Supreme Court was apparently denied on an unknown date. Petitioner filed the instant
28 federal habeas petition in the United States District Court for the Eastern District of

1 California on November 28, 2006. Petitioner subsequently filed an amended petition in
2 this Court in 2007. This Court dismissed the petition with leave to amend, advising
3 Petitioner that he failed to provide sufficient information regarding several claims in order
4 to proceed. Petitioner subsequently filed a second amended petition, identical to the first.
5 Therefore, the Court has now reviewed the petition and will dismiss claims 3, 4 and 5 and
6 will order Respondent to show cause why Petitioner's other claims should not be granted.

7 **DISCUSSION**

8 **I Standard of Review**

9 This court may entertain a petition for a writ of habeas corpus "in behalf of a person
10 in custody pursuant to the judgment of a State court only on the ground that he is in
11 custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C.
12 § 2254(a).

13 It shall "award the writ or issue an order directing the respondent to show cause
14 why the writ should not be granted, unless it appears from the application that the applicant
15 or person detained is not entitled thereto." *Id.* § 2243.

16 **II Legal Claims**

17 Petitioner raises the following ground for relief: 1) ineffective assistance of trial
18 counsel; and 2) ineffective assistance of appellate counsel. Liberally construed, it does
19 not appear from the face of the petition that Petitioner is not entitled to relief on the claims
20 set forth above. Accordingly, Respondent is ordered to respond to the petition as set forth
21 below.

22 **CONCLUSION**

23 For the foregoing reasons and for good cause shown,

24 1. The Clerk shall serve by certified mail a copy of this order and the petition, and
25 all attachments thereto, on Respondent and Respondent's attorney, the Attorney General of
26 the State of California. The Clerk also shall serve a copy of this order on Petitioner.

27 2. Respondent shall file with the Court and serve on Petitioner, within **sixty (60)**
28

1 days of the issuance of this order, an answer conforming in all respects to Rule 5 of the
2 Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should
3 not be granted. Respondent shall file with the answer and serve on Petitioner a copy of all
4 portions of the state trial record that have been transcribed previously and that are relevant
5 to a determination of the issues presented by the petition. If Petitioner wishes to respond
6 to the answer, he shall do so by filing a traverse with the Court and serving it on
7 Respondent within **thirty (30)** days of the date the answer is filed.


8 3. Respondent may file a motion to dismiss on procedural grounds in lieu of an
9 answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing
10 Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court
11 and serve on Respondent an opposition or statement of non-opposition within **thirty (30)**
12 days of the date the motion is filed, and Respondent shall file with the Court and serve on
13 Petitioner a reply within **fifteen (15)** days the date the opposition is filed.

14 4. It is Petitioner's responsibility to prosecute this case. Petitioner must keep
15 the Court informed of any change of address by filing a separate paper captioned "Notice
16 of Change of Address." He must comply with the Court's orders in a timely fashion.
17 Failure to do so may result in the dismissal of this action for failure to prosecute pursuant
18 to Federal Rule of Civil Procedure 41(b).

19 This order terminates Docket No. 9.

20 IT IS SO ORDERED.

21 DATED: October 26, 2009

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23 _____
24 JEFFREY S. WHITE
25 United States District Judge
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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 ENRIQUE ZAMORA SANCHEZ,
6

Case Number: CV06-07310 JSW

7 Plaintiff,

CERTIFICATE OF SERVICE

8 v.

9 JAMES TILTON et al,


10 Defendant.
11 _____/

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

13 That on October 26, 2009, I SERVED a true and correct copy(ies) of the attached, by placing
14 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
15 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office
16 delivery receptacle located in the Clerk's office.

17 Enrique Zamora Sanchez
18 El Centro Processing Center
19 A90-547-562
20 Prisoner ID V09866
1115 North Imperial Avenue
El Centro, CA 92243-1739

21 Dated: October 26, 2009


22 Richard W. Wieking, Clerk
23 By: Jennifer Ottolini, Deputy Clerk
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