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

REYES LEGRANDE, JR,
Petitioner,

No. C 07-01793 WHA

v.

**ORDER REQUESTING
ADDITIONAL BRIEFING**

JAMES A. YATES, Warden of Pleasant Valley
State Prison,
Respondent.

This is a habeas action filed by a California state prisoner pursuant to 28 U.S.C. 2254, challenging his 2004 conviction on twelve counts in Santa Clara County Superior Court. Counts 4 through 12 against him arose from a vehicle stop on January 25, 2003. Petitioner was a passenger in a Mercury Cougar driven by his co-defendant in which the police discovered a pistol and methamphetamine during the vehicle stop. Among other claims, petitioner argues that his trial counsel was constitutionally ineffective because he failed to introduce evidence at trial that neither petitioner nor his co-defendant was the registered owner of the Mercury Cougar.

During a pretrial motion to suppress the fruits of the vehicle search, petitioner testified that the owner of the Mercury was “a friend and business partner or something like that” named Steven Garcia (Exh. C-1 at 4). Petitioner argues that trial counsel should have introduced evidence that Garcia owned the car and that petitioner’s co-defendant was merely test-driving it. The record here does not reveal why trial counsel did not present evidence regarding the

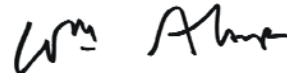
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identity of the registered owner of the Mercury or that petitioner and his co-defendant were merely test-driving the car.

By **NOON ON MONDAY, MAY 3, 2010**, the parties are requested to submit supplemental briefing of no more than 5 pages regarding whether an evidentiary hearing should be held to address the issue of whether trial counsel’s failure to present evidence about the identity of the Mercury’s true owner fell below an “objective standard of reasonableness” under professional norms. Replies of no more than 3 pages shall be filed no later than **NOON ON WEDNESDAY, MAY 5, 2010**.

IT IS SO ORDERED.

Dated: April 28, 2010.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE