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

JUAN MONARREZ,	)	No. C 08-3198 JSW (PR)
	)	
Petitioner,	)	<b>ORDER TO SHOW CAUSE</b>
	)	
vs.	)	
	)	
RICHARD J. KIRKLAND, Warden,	)	(Docket No. 2)
	)	
Respondent.	)	
	)	
_____	)	

**INTRODUCTION**

Petitioner, a prisoner of the State of California, currently incarcerated at Pelican Bay State Prison in Crescent City, California, has filed a habeas corpus petition pursuant to 28 U.S.C. § 2254 challenging the decision of the prison to place him in the security housing unit on indeterminate status. Petitioner has filed a motion to proceed *in forma pauperis* which is now GRANTED (docket no. 2). This order directs Respondent to show cause why the petition should not be granted.

**BACKGROUND**

According to the petition, in 2004, Petitioner was placed in the administrative segregation as a result of an investigation by the Institutional Gang Investigator, who “validated” Petitioner as an associate of the Mexican Mafia. Petitioner contends that there was not “some evidence” to support this determination and requests the Court to reverse the finding and return him to the prison’s general population.

1 **DISCUSSION**

2 I Standard of Review

3 This court may entertain a petition for a writ of habeas corpus “in behalf of a person  
4 in custody pursuant to the judgment of a State court only on the ground that he is in  
5 custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C.  
6 § 2254(a).

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

10 II Legal Claims

11 Petitioner alleges that the decision violated his right to due process because the  
12 decision was not supported by some evidence. Liberally construed, the allegations are  
13 sufficient to warrant a response from Respondent. *See Superintendent v. Hill*, 472 U.S.  
14 445, 455 (1985).

15 **CONCLUSION**

16 For the foregoing reasons and for good cause shown,

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

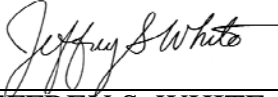
20 2. Respondent shall file with the Court and serve on Petitioner, within **sixty (60)**  
21 days of the issuance of this order, an answer conforming in all respects to Rule 5 of the  
22 Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should  
23 not be granted. Respondent shall file with the answer and serve on Petitioner a copy of all  
24 portions of the state trial record that have been transcribed previously and that are relevant  
25 to a determination of the issues presented by the petition. If Petitioner wishes to respond  
26 to the answer, he shall do so by filing a traverse with the Court and serving it on  
27 Respondent within **thirty (30)** days of his receipt of the answer.

1           3. Respondent may file a motion to dismiss on procedural grounds in lieu of an  
2 answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing  
3 Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court  
4 and serve on Respondent an opposition or statement of non-opposition within **thirty (30)**  
5 days of receipt of the motion, and Respondent shall file with the Court and serve on  
6 Petitioner a reply within **fifteen (15)** days of receipt of any opposition.

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

12           IT IS SO ORDERED.

13           DATED: February 24, 2009

14                                   
15                                 \_\_\_\_\_  
16                                 JEFFREY S. WHITE  
17                                 United States District Judge  
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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA  
4

5 JUAN MONARREZ,  
6 Plaintiff,  
7

Case Number: CV08-03198 JSW

**CERTIFICATE OF SERVICE**

8 v.


9 RICHARD J. KIRKLAND et al,  
10 Defendant.  
\_\_\_\_\_ /

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

13 That on February 24, 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 Juan Monarrez  
18 P50731  
19 P.O. Box 7500  
20 Crescent City, CA 95532

Dated: February 24, 2009

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