

1 Rose v. Hodges, 423 U.S. 19, 21 (1975). A district court shall “award the writ or issue an
2 order directing the respondent to show cause why the writ should not be granted, unless it
3 appears from the application that the applicant or person detained is not entitled thereto.”
4 28 U.S.C. § 2243. Summary dismissal is appropriate only where the allegations in the
5 petition are vague or conclusory, palpably incredible, or patently frivolous or false. See
6 Hendricks v. Vasquez, 908 F.2d 490, 491 (9th Cir. 1990) (quoting Blackledge v. Allison,
7 431 U.S. 63, 75-76 (1977)).

8 B. Petitioner’s Claim

9 Petitioner claims the denial of parole violated his federal constitutional right to due
10 process because the Board relied solely on his commitment offense to justify the denial of
11 parole, and, consequently, the Board’s decision that petitioner’s release would pose an
12 unreasonable risk to public safety was not supported by some evidence. Liberally construed,
13 petitioner’s claim is cognizable.

14 **CONCLUSION**

15 For the reasons stated above, the Court orders as follows:

16 1. The Clerk shall serve by certified mail a copy of this order and the petition, along
17 with the exhibits lodged in support thereof, upon respondent and respondent’s counsel, the
18 Attorney General for the State of California. The Clerk shall also serve a copy of this order
19 on petitioner.

20 2. Respondent shall file with the Court and serve on petitioner, within **ninety (90)**
21 days of the date this order is filed, 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 not
23 be granted based on petitioner’s cognizable claims. Respondent shall file with the answer
24 and serve on petitioner a copy of all portions of the state trial record that have been
25 transcribed previously and that are relevant to a determination of the issues presented by the
26 petition.

27 If petitioner wishes to respond to the answer, he shall do so by filing a traverse with
28 the Court and serving it on respondent within **thirty (30)** days of the date the answer is filed.

