



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

7 B. Petitioner’s Claims

8 Petitioner raises the following claims for relief: five claims of ineffective assistance of  
9 trial counsel, a claim of wrongful denial of the right to self-representation, a claim of  
10 prosecutorial misconduct based on the wrongful exclusion of jurors, a claim of irreconcilable  
11 conflict with trial counsel, and a claim of cumulative error amounting to a violation of due  
12 process. Liberally construed, petitioner’s claims are cognizable.

13 Additionally, in light of petitioner’s lack of funds, the Court finds petitioner is entitled  
14 to proceed IFP.

15 **CONCLUSION**

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

- 17 1. Petitioner’s application to proceed IFP is hereby GRANTED.
- 18 2. The Clerk shall serve by certified mail a copy of this order, the petition and all  
19 attachments thereto on respondent and respondent’s counsel, the Attorney General for the  
20 State of California. The Clerk shall also serve a copy of this order on petitioner.
- 21 3. Respondent shall file with the Court and serve on petitioner, within **ninety (90)**  
22 days of the date this order is filed, an answer conforming in all respects to Rule 5 of the  
23 Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not  
24 be granted based on petitioner’s cognizable claims. Respondent shall file with the answer  
25 and serve on petitioner a copy of all portions of the state trial record that have been  
26 transcribed previously and that are relevant to a determination of the issues presented by the  
27 petition.

28 If petitioner wishes to respond to the answer, he shall do so by filing a traverse with

1 the Court and serving it on respondent's counsel within **thirty (30)** days of the date the  
2 answer is filed.

3 4. In lieu of an answer, respondent may file, within **ninety (90)** days of the date this  
4 order is filed, a motion to dismiss on procedural grounds, as set forth in the Advisory  
5 Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If respondent files  
6 such a motion, petitioner shall file with the Court and serve on respondent an opposition or  
7 statement of non-opposition within **thirty (30)** days of the date the motion is filed, and  
8 respondent shall file with the Court and serve on petitioner a reply within **fifteen (15)** days of  
9 the date any opposition is filed.


10 5. Petitioner is reminded that all communications with the Court must be served on  
11 respondent by mailing a true copy of the document to respondent's counsel.

12 6. It is petitioner's responsibility to prosecute this case. Petitioner must keep the  
13 Court and respondent informed of any change of address and must comply with the Court's  
14 orders in a timely fashion. Failure to do so may result in the dismissal of this action for  
15 failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

16 7. Upon a showing of good cause, requests for a reasonable extension of time will be  
17 granted provided they are filed on or before the deadline they seek to extend.

18 IT IS SO ORDERED.

19 DATED: July 17, 2009

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21 MAXINE M. CHESNEY  
22 United States District Judge  
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