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United States District Court
For the Northern District of California

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

JOSE ANGEL JUAREZ,)	No. C 09-02734 JW (PR)
Petitioner,)	ORDER TO SHOW CAUSE
vs.)	
FRANCISCO JACQUEZ, Warden,)	
Respondent.)	
_____)	

Petitioner, a California inmate currently incarcerated at Pelican Bay State Prison, has filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging his state conviction. Petitioner has paid the filing fee.

BACKGROUND

According to the petition, petitioner was found guilty by a jury in the Superior Court of the State of California in and for the County of Sant Cruz of conspiracy to commit a crime (Cal. Penal Code § 182(a)(1)), robbery (Cal. Penal Code § 211), kidnapping during the commission of a carjacking (Cal. Penal Code § 209.5), assault with a deadly weapon (Cal. Penal Code § 245), and multiple enhancements (Cal. Penal Code §§ 12022.5(a), 12022.53(b), 667(a)(1)). (Pet. 2.)

1 Petitioner was sentenced to thirty-nine years and eight months to life in state prison.
2 (Id.)

3 Petitioner appealed the conviction, and the California Supreme Court
4 affirmed on April 9, 2008. (Id., Ex. A.) Petitioner did not seek relief in any
5 proceeding other than direct appeal. (Id. at 4.) Petitioner filed the instant federal
6 habeas petition on June 19, 2009.

8 DISCUSSION

9 A. Standard of Review

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

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

17 B. Legal Claims

18 Petitioner raises the following grounds for federal habeas relief: 1) ineffective
19 assistance by trial counsel for failing to object to admission of tainted evidence; and
20 2) petitioner’s rights to due process and an impartial jury were violated when the
21 jury heard inadmissible and highly prejudicial evidence which tainted their
22 evaluation of the case. Liberally construed, petitioner’s claims appear cognizable
23 under § 2254 and merit an answer from respondent.

25 CONCLUSION

26 For the foregoing reasons and for good cause shown,

27 1. The clerk shall serve by certified mail a copy of this order and the
28 petition and all attachments thereto on respondent and respondent’s attorney, the

1 Attorney General of the State of California. The clerk also shall serve a copy of this
2 order on petitioner.

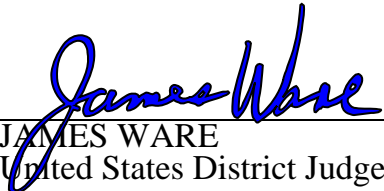
3 2. Respondent shall file with the court and serve on petitioner, within
4 **sixty (60) days** of the issuance of this order, an answer conforming in all respects to
5 Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of
6 habeas corpus should not be issued. Respondent shall file with the answer and serve
7 on petitioner a copy of all portions of the state trial record that have been transcribed
8 previously and that are relevant to a determination of the issues presented by the
9 petition.

10 If petitioner wishes to respond to the answer, he shall do so by filing a
11 traverse with the court and serving it on respondent within **thirty (30) days** of his
12 receipt of the answer.

13 3. Respondent may file a motion to dismiss on procedural grounds in lieu
14 of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules
15 Governing Section 2254 Cases. If respondent files such a motion, petitioner shall
16 file with the court and serve on respondent an opposition or statement of non-
17 opposition within **thirty (30) days** of receipt of the motion, and respondent shall file
18 with the court and serve on petitioner a reply within **fifteen (15) days** of receipt of
19 any opposition.

20 4. Petitioner is reminded that all communications with the court must be
21 served on respondent by mailing a true copy of the document to respondent's
22 counsel. Petitioner must also keep the court and all parties informed of any change
23 of address.

24
25 DATED: October 19, 2009


26 JAMES WARE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JOSE ANGEL JUAREZ,
Petitioner,

Case Number: CV09-02734 JW

CERTIFICATE OF SERVICE

v.

FRANCISCO JACQUEZ, Warden,
Respondent.

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

That on 10/19/2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Jose Angel Juarez J 55194
Pelican Bay State Prison
P. O. Box 7500
Crescent City, Ca 95532

Dated: 10/19/2009

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk