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

RICHARD THORN, G-13655,)	
)	
Petitioner,)	No. C 10-2225 CRB (PR)
)	
vs.)	ORDER TO SHOW CAUSE
)	
ANTHONY HEDGPETH, Warden,)	(Docket # 2)
)	
Respondent.)	
_____)	

Petitioner, a prisoner incarcerated at Salinas Valley State Prison (SVSP), has filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. He also seeks to proceed in forma pauperis under 28 U.S.C. § 1915.

BACKGROUND

Petitioner was convicted by a jury in San Mateo County Superior Court of first-degree residential burglary. The court found that petitioner suffered two prior serious felony convictions and, on April 18, 2008, sentenced him to seven years in state prison. Petitioner unsuccessfully appealed his conviction to the California Court of Appeal and the Supreme Court of California.

1 **DISCUSSION**

2 A. Standard of Review

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

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

10 B. Claims

11 Petitioner seeks federal habeas corpus relief by claiming insufficiency of
12 the evidence and instructional error. Liberally construed, the claims appear
13 minimally cognizable under § 2254 and merit an answer from respondent. See
14 Zichko v. Idaho, 247 F.3d 1015, 1020 (9th Cir. 2001) (federal courts must
15 construe pro se petitions for writs of habeas corpus liberally).

16 **CONCLUSION**

17 For the foregoing reasons and for good cause shown,

18 1. Petitioner's request to proceed in forma pauperis (docket # 2) is
19 GRANTED.

20 2. The clerk shall serve by certified mail a copy of this order and the
21 petition and all attachments thereto on respondent and respondent's attorney, the
22 Attorney General of the State of California. The clerk also shall serve a copy of
23 this order on petitioner.

24 3. Respondent shall file with the court and serve on petitioner, within
25 60 days of the issuance of this order, an answer conforming in all respects to Rule
26 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of
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1 habeas corpus should not be granted. Respondent shall file with the answer and
2 serve on petitioner a copy of all portions of the state trial record that have been
3 transcribed previously and that are relevant to a determination of the issues
4 presented by the petition.

5 If petitioner wishes to respond to the answer, he shall do so by filing a
6 traverse with the court and serving it on respondent within 30 days of his receipt
7 of the answer.

8 4. Respondent may file a motion to dismiss on procedural grounds in
9 lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the
10 Rules Governing Section 2254 Cases. If respondent files such a motion,
11 petitioner shall file with the court and serve on respondent an opposition or
12 statement of non-opposition within 30 days of receipt of the motion, and
13 respondent shall file with the court and serve on petitioner a reply within 15 days
14 of receipt of any opposition.

15 5. Petitioner is reminded that all communications with the court must
16 be served on respondent by mailing a true copy of the document to respondent's
17 counsel. Petitioner must also keep the court and all parties informed of any
18 change of address.

19 SO ORDERED.

20 DATED: Sept. 1, 2010



21 CHARLES R. BREYER
22 United States District Judge
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