



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 raising several claims that  
12 appear to implicate the validity of his plea, including ineffective assistance of  
13 counsel and denial of a competency hearing. Liberally construed, the claims  
14 appear minimally cognizable under § 2254 and merit an answer from respondent.  
15 See Zichko v. Idaho, 247 F.3d 1015, 1020 (9th Cir. 2001) (federal courts must  
16 construe pro se petitions for writs of habeas corpus liberally).

17 **CONCLUSION**

18 For the foregoing reasons and for good cause shown,

19 1. Petitioner's request to proceed in forma pauperis (docket # 2 & 4) is  
20 GRANTED.

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

25 3. Respondent shall file with the court and serve on petitioner, within  
26 60 days of the issuance of this order, an answer conforming in all respects to Rule  
27

1 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of  
2 habeas corpus should not be granted. Respondent shall file with the answer and  
3 serve on petitioner a copy of all portions of the state trial record that have been  
4 transcribed previously and that are relevant to a determination of the issues  
5 presented by the petition.

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

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

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

20 SO ORDERED.

21 DATED: Sept. 1, 2010

  
\_\_\_\_\_  
22 CHARLES R. BREYER  
23 United States District Judge  
24  
25  
26