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

DARRYL DANIELS,

Petitioner,

v.

GREG LEWIS, Warden, Pelican Bay State  
Prison,

Respondent.

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No. C 10-04032 JSW

**ORDER TO SHOW CAUSE**

On September 8, 2010, Petitioner Darryl Daniels (“Daniels”), a state prisoner, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. On September 13, 2010, Daniels filed an Amended Petition for Writ of Habeas Corpus.

**BACKGROUND**

Daniels was convicted of two counts of attempted premeditated murder, one count of shooting from a motor vehicle, one count of shooting at an occupied motor vehicle, one count of car jacking and one count of second degree robbery, as well as various enhancement clauses arising from use of a firearm and was sentenced to 56 years and 8 months to life imprisonment. Daniels currently is in the custody of Respondent Greg Lewis, warden, Pelican Bay State Prison, Crescent City, California.

**LEGAL CLAIMS**

Daniels seeks habeas relief on the basis that his rights under the Due Process Clause of the 14th Amendment to the United States Constitution were violated because there was insufficient evidence to support the necessary element of “force and fear” for the carjacking and

1 robbery convictions. Daniels also contends that his due process rights were violated based on  
2 the admission of certain evidence that Daniels contends were not relevant to any issue and,  
3 rather, served only to show a propensity for criminal conduct. Liberally construed, the claim  
4 appears potentially colorable under 28 U.S.C. § 2254 and merit an answer from Respondents.

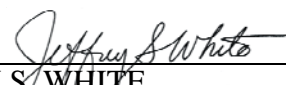
5 **CONCLUSION**

6 For the foregoing reasons and for good cause shown:

- 7 1. The Clerk shall serve by certified mail a copy of this Order and the petition, and  
8 all attachments thereto upon Respondent and Respondent's attorney, the  
9 Attorney General of the State of California.
- 10 2. Respondent shall file with the Court and serve on Daniels, within 60 days of the  
11 date of this Order, an answer conforming in all respects to Rule 5 of the Rules  
12 Governing Section 2254 Cases, showing cause why a writ of habeas corpus  
13 should not be issued. Respondent shall file with the answer and serve on Daniels  
14 a copy of all portions of the administrative record that are relevant to a  
15 determination of the issues presented by the petition.
- 16 3. If Daniels wishes to respond to the answer, he shall do so by filing a traverse  
17 with the Court and serving it on Respondent within 30 days of his receipt of the  
18 answer.

19 **IT IS SO ORDERED.**

20  
21 Dated: September 13, 2010

  
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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE