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10 LLOYD RONALD GLOVER,

No. C 11-1191 SI (pr)

11 Petitioner,

**ORDER TO SHOW CAUSE**

12 v.

13 GARY SWARTHOUT, warden,

14 Respondent.

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**INTRODUCTION**

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**BACKGROUND**

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The petition for writ of habeas corpus includes the following information: Glover was convicted in San Francisco County Superior Court of first degree burglary and a sentence enhancement allegation under California Penal Code §667.5(c)(21) was found true. In August

1 2007, he was sentenced to 20 years in state prison. He appealed. In 2010, the California Court  
2 of Appeal affirmed his conviction and the California Supreme Court denied his petition for  
3 review. He then filed this action.

## 4 5 **DISCUSSION**

6 This court may entertain a petition for writ of habeas corpus "in behalf of a person in  
7 custody pursuant to the judgment of a State court only on the ground that he is in custody in  
8 violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). A  
9 district court considering an application for a writ of habeas corpus shall "award the writ or issue  
10 an order directing the respondent to show cause why the writ should not be granted, unless it  
11 appears from the application that the applicant or person detained is not entitled thereto." 28  
12 U.S.C. § 2243.

13 The amended petition (docket # 6) alleges the following claims. First, Glover alleges that  
14 he was denied his right to present a defense when the court refused to ask, and/or refused to  
15 allow defense counsel to ask, hypothetical questions to the identification expert witness Dr.  
16 Eisen. Second, Glover alleges that he received ineffective assistance of counsel in that counsel  
17 failed to investigate Ms. Weitzman's statement and failed to present evidence to impeach Mr.  
18 Weitzman. Third, Glover alleges that the trial court erroneously denied his *Marsden* motions,  
19 thereby depriving him of effective assistance of counsel. Fourth, Glover alleges that the trial  
20 court erred in failing to grant his motion for a new trial that apparently complained of the  
21 restrictions on the identification expert witness' testimony and Confrontation Clause violations  
22 in the introduction of testimonial statements from out-of-court declarants. Fifth, Glover alleges  
23 that his right to due process was violated because the evidence was insufficient to support the  
24 sentence enhancement finding for burglary of an occupied premises. Liberally construed, the  
25 claims appear to be cognizable in a federal habeas action.

1 **CONCLUSION**

2 For the foregoing reasons,

3 1. The amended petition states cognizable claims for habeas relief and warrants a  
4 response.

5 2. The clerk shall serve by certified mail a copy of this order, the petition and  
6 amended petition, and all attachments thereto upon respondent and respondent's attorney, the  
7 Attorney General of the State of California. The clerk shall also serve a copy of this order on  
8 petitioner.

9 3. Respondent must file and serve upon petitioner, on or before **December 9, 2011**,  
10 an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases,  
11 showing cause why a writ of habeas corpus should not be issued. Respondent must file with the  
12 answer a copy of all portions of the court proceedings that have been previously transcribed and  
13 that are relevant to a determination of the issues presented by the petition.


14 4. If petitioner wishes to respond to the answer, he must do so by filing a traverse  
15 with the court and serving it on respondent on or before **January 13, 2012**.

16 5. Petitioner is responsible for prosecuting this case. Petitioner must promptly keep  
17 the court informed of any change of address and must comply with the court's orders in a timely  
18 fashion.

19 6. Petitioner is cautioned that he must include the case name and case number for this  
20 case on any document he submits to this court for consideration in this case.

21 IT IS SO ORDERED.

22 DATED: September 30, 2011

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25 SUSAN ILLSTON  
26 United States District Judge  
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