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FILED

FEB - 2 2012

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

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

LEONARD ROSS, II,

Petitioner,

vs.

G. SWARTHOUT, Warden,

Respondent.

No. C 11-2806 JW (PR)

ORDER TO SHOW CAUSE

Petitioner, a state prisoner incarcerated at California State Prison–Solano in Vacaville, California, has filed a first amended pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging a criminal judgment from Santa Clara County superior court. Doc. No. 5.

DISCUSSION

A. Standard of Review

This Court may entertain a petition for a writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). It shall “award the writ or issue an order directing the

1 respondent to show cause why the writ should not be granted, unless it appears from
2 the application that the applicant or person detained is not entitled thereto.” Id.
3 § 2243.

4
5 B. Legal Claims

6 Petitioner raises the following ground for federal habeas relief: (1) the trial
7 court jury instruction on self-defense was legally erroneous. See Doc. #5 at 6.
8 Liberally construed, this claim is sufficient to merit an answer from Respondent.

9
10 **CONCLUSION**

11 For the foregoing reasons and for good cause shown,

12 1. The Clerk shall serve by certified mail a copy of this order and the
13 Petition and all attachments thereto on Respondent and Respondent’s attorney, the
14 Attorney General of the State of California. The Clerk also shall serve a copy of this
15 order on Petitioner.

16 2. Respondent shall file with the court and serve on Petitioner, within
17 **sixty (60) days** of the issuance of this order, an answer conforming in all respects to
18 Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of
19 habeas corpus should not be issued. Respondent shall file with the Answer and
20 serve on Petitioner a copy of all portions of the state trial record that have been
21 transcribed previously and that are relevant to a determination of the issues
22 presented by the Petition.

23 If Petitioner wishes to respond to the Answer, he shall do so by filing a
24 Traverse with the court and serving it on Respondent within **thirty (30) days** of his
25 receipt of the answer.

26 3. In lieu of an Answer, Respondent may file a motion to dismiss on
27 procedural grounds as set forth in the Advisory Committee Notes to Rule 4 of the
28 Rules Governing Section 2254 Cases. If Respondent files such a motion, Petitioner

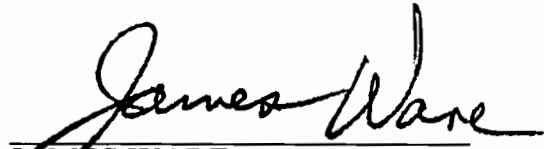
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shall file with the court and serve on Respondent an opposition or statement of non-opposition within **thirty (30) days** of receipt of the motion, and Respondent shall file with the court and serve on Petitioner a reply within **fifteen (15) days** of receipt of any opposition.

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

IT IS SO ORDERED.

DATED: February 2, 2012



JAMES WARE
United States District Chief Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

LEONARD JOHN ROSS II,
Plaintiff,

Case Number: CV11-02806 JW

CERTIFICATE OF SERVICE

v.

G. SWARTHOUT et al,
Defendant.


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 February 2, 2012, 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.

Leonard Ross F-24614
CSP Solano
7-112U
P.O. Box 4000
Vacaville, CA 95696

Dated: February 2, 2012

Richard W. Wieking, Clerk



By: Susan Imbriani, Deputy Clerk