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

EDWAUN VICTOR MOORE,

Petitioner,

No. C 11-02905 JSW

v.

GARY SWARTHOUT, Warden,

ORDER TO SHOW CAUSE

Respondent.

On June 14, 2011, Petitioner Edwaun Victor Moore (“Moore”), a state prisoner, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254.

BACKGROUND

Moore was convicted of second-degree murder and of firing at an inhabited dwelling, and was sentenced to a term of 15 years and a consecutive term of 15 years to life. Moore currently is in the custody of Respondent Gary Swarthout, Warden of California State Prison Solano, in Vacaville, California.

LEGAL CLAIMS

Moore 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 the trial court gave improper jury instructions which prevented the jury from considering self-defense. Liberally construed, the claim appears potentially colorable under 28 U.S.C. § 2254 and merit an answer from Respondents.

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CONCLUSION

For the foregoing reasons and for good cause shown:

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

IT IS SO ORDERED.

Dated: June 17, 2011



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE