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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVE G. DINSMORE,
Petitioner,

No. C-11-3296 EMC (pr)

v.

ORDER TO SHOW CAUSE

GREG LEWIS,
Respondent.

_____ /

INTRODUCTION

Steve G. Dinsmore, an inmate at Pelican Bay State Prison, filed this *pro se* action for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. His petition is now before the Court for review pursuant to 28 U.S.C. §2243 and Rule 4 of the Rules Governing Section 2254 Cases.

BACKGROUND

The petition and attachments thereto provide the following information: Dinsmore was convicted in Humboldt County Superior Court of assault with a firearm on a peace officer, resisting arrest, and possession of a firearm by a felon. *See* Petition, unnumbered exhibits, Petition For Review, p. 3. In December 2006, Dinsmore was sentenced to a total of 30 years and eight months in prison.

Dinsmore appealed. The judgment of conviction was affirmed by the California Court of Appeal in 2009 and the petition for review was denied by the California Supreme Court in 2010. Dinsmore then filed this action.

DISCUSSION

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2 This Court may entertain a petition for writ of habeas corpus “in behalf of a person in
3 custody pursuant to the judgment of a State court only on the ground that he is in custody in
4 violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). A
5 district court considering an application for a writ of habeas corpus shall “award the writ or issue an
6 order directing the respondent to show cause why the writ should not be granted, unless it appears
7 from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.
8 Summary dismissal is appropriate only where the allegations in the petition are vague or conclusory,
9 palpably incredible, or patently frivolous or false. See *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th
10 Cir. 1990).

11 The petition alleges the following claims: (1) “due process requires a new trial where a new
12 post-trial forensic analysis rebuts a crucial component of case,” Petition, pp. 7-8; (2) defense counsel
13 provided ineffective assistance of counsel in that he failed to obtain a reliable voice analysis until
14 after the trial; (3) defense counsel provided ineffective assistance of counsel in that he failed to
15 object to reading the prior conviction allegations to the jury; and (4) defense counsel provided
16 ineffective assistance in that he failed to adequately preserve the issue of the multiple defects in the
17 court’s sentencing reasons.

18 Giving the *pro se* petition the liberal construction to which it is entitled, the Court cannot say
19 that the first claim is patently frivolous and therefore will require Respondent to respond to it. The
20 other three claims, liberally construed, are cognizable claims for violations of the Sixth Amendment
21 right to counsel, which guarantees not only assistance, but effective assistance, of counsel. See
22 *Strickland v. Washington*, 466 U.S. 668, 686 (1984).

CONCLUSION

23
24 For the foregoing reasons,

25 1. The petition warrants a response.

26 2. The Clerk shall serve by certified mail a copy of this order, the petition and all
27 attachments thereto upon Respondent and Respondent’s attorney, the Attorney General of the State
28 of California. The Clerk shall also serve a copy of this order on Petitioner.

