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

6 LEON LEE MEYERS,

No. C-11-5327 TEH (PR)

7 Petitioner,

ORDER TO SHOW CAUSE REGARDING
8 AMENDED PETITION

9 v.

10 ANTHONY HEDGPETH, Warden,

11 Respondent.
_____ /

12
13 Petitioner Leon Lee Meyers has filed a pro se Petition for
14 a Writ of Habeas Corpus under 28 U.S.C. § 2254 challenging a
15 judgment of conviction from Alameda County Superior Court. Doc. #1.
16 He has paid the \$5.00 filing fee. On April 17, 2012, the Court
17 ordered Respondent, by June 17, 2012, to show cause why a writ of
18 habeas corpus should not be granted. Doc. #13. On May 1, 2012,
19 before Respondent filed his answer, Petitioner filed a motion to
20 amend his petition. On May 23, 2012, the Court issued an Order
21 Granting in Part and Denying in Part the motion to amend the
22 petition. (Doc. #18). In the May 23, 2012 Order, the Court allowed
23 Petitioner to include the following claims in his amended petition:
24 instructional error with respect to the jury instruction for
25 assault, denial of a continuance, and denial of a legal runner. The
26 Court stated that the remainder of Petitioner's proposed claims were
27 not stated with sufficient specificity and, if Petitioner wished to
28 include them in another amended petition, he must file a renewed

1 motion to include those claims. On June 5, 2012, Petitioner
2 submitted his amended petition.

3 In his amended petition, in addition to the claims that
4 the Court allowed in the May 23, 2012 Order, Petitioner alleges
5 other claims that he did not include in his motion to amend his
6 petition and which the Court has not addressed. These claims appear
7 in the section of the petition labeled "Additional Claims." They
8 include such claims as denial of advisory counsel, denial of the
9 right to call witnesses, double jeopardy and an unconstitutional
10 probation violation hearing. Construed liberally, these claims
11 appear to be cognizable on habeas review. Even though Petitioner
12 did not include them in his motion to amend his petition, in the
13 interests of justice and judicial economy, the Court will allow them
14 to be included in the amended petition. However, Petitioner is
15 advised that, he may not add claims to his petition without leave of
16 Court to do so.

17 For the foregoing reasons and for good cause shown,

18 1. The Clerk shall serve by certified mail a copy of this
19 Order and the Amended Petition on Respondent and Respondent's
20 attorney, the Attorney General of the State of California. The
21 Clerk also shall serve a copy of this Order on Petitioner.

22 2. Respondent shall file with the Court and serve on
23 Petitioner, within sixty (60) days of the issuance of this Order, an
24 Answer conforming in all respects to Rule 5 of the Rules Governing
25 Section 2254 Cases, showing cause why a writ of habeas corpus should
26 not be granted. Respondent shall file with the Answer and serve on
27

1 Petitioner a copy of all portions of the state trial record that
2 have been transcribed previously and that are relevant to a
3 determination of the issues presented by the Petition.


4 If Petitioner wishes to respond to the Answer, he shall do
5 so by filing a Traverse with the Court and serving it on Respondent
6 within thirty (30) days of his receipt of the Answer.

7 3. In lieu of an Answer, Respondent may file a Motion to
8 Dismiss on procedural grounds, as set forth in the Advisory
9 Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases.
10 If Respondent files such a motion, Petitioner shall file with the
11 Court and serve on Respondent an Opposition or Statement of
12 Non-Opposition within thirty (30) days of receipt of the motion, and
13 Respondent shall file with the Court and serve on Petitioner a Reply
14 within fifteen (15) days of receipt of any Opposition.

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

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20 IT IS SO ORDERED.

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22 DATED 08/07/2012



THELTON E. HENDERSON
United States District Judge

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