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

ALFREDO G. PANGILINAN,
Petitioner,
v.
GREG LEWIS, Warden,
Respondent.

No. C-12-0194 TEH (PR)

ORDER TO SHOW CAUSE, DENYING
REQUEST FOR APPOINTMENT OF
COUNSEL AND DENYING AS MOOT
REQUEST TO PROCEED IN FORMA
PAUPERIS

_____/ Doc. ##2, 6

Petitioner, a state prisoner incarcerated at Pelican Bay State Prison in Crescent City, California, has filed a pro se Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254 challenging a judgment of conviction from Contra Costa County Superior Court. Doc. #1.

I

According to the Petition, in 2009, Petitioner was convicted by jury of two counts of murder, assault with a deadly weapon, and the jury's finding true deadly weapon use, and multiple murder special circumstance allegations. Doc. #1 at 32. He was sentenced to consecutive terms of life without possibility of parole

1 for two homicides, a determinate term of 3 years for a conviction of
2 assault, and consecutive determinate terms of one year each of use
3 of a deadly weapon in each of the two homicides, as well as various
4 fines and court fees. Id. at 7. Petitioner unsuccessfully appealed
5 his conviction to the state appellate courts (id. at 32-40) and to
6 the California Supreme Court (id. at 3). The instant federal
7 Petition for a Writ of Habeas Corpus followed.

8 II

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

17 Petitioner seeks federal habeas corpus relief by alleging
18 that there was insufficient evidence to support his conviction for
19 the murder of Virginia Farley.

20 Liberally construed, Petitioner's claim appears cognizable
21 under 28 U.S.C. § 2254 and merits an Answer from Respondent. See
22 Zichko v. Idaho, 247 F.3d 1015, 1020 (9th Cir. 2001) (federal courts
23 must construe pro se petitions for writs of habeas corpus
24 liberally).

25 III

26 Petitioner seeks leave to proceed in forma pauperis, (Doc.
27 #6), which the Court DENIES AS MOOT. The Court has already granted
28

1 determination of the issues presented by the Petition.


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

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

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

17 IT IS SO ORDERED.

18
19 DATED 04/25/2012



THELTON E. HENDERSON
United States District Judge

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