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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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10 JASPER BAILEY, G60744, )  
11 Petitioner, ) No. C 12-1414 CRB (PR)  
12 vs. ) ORDER TO SHOW CAUSE  
13 RALPH DIAZ, Acting Warden, ) (Docket # 3, 9 & 14)  
14 Respondent. )  
15 \_\_\_\_\_ )

16 Petitioner, a state prisoner incarcerated at the California Substance Abuse  
17 Treatment Facility and State Prison, Corcoran, has filed a pro se petition for a  
18 writ of habeas corpus under 28 U.S.C. § 2254 challenging a conviction and  
19 sentence from Santa Clara County Superior Court. He also seeks to proceed in  
20 forma pauperis under 28 U.S.C. § 1915.

21 **BACKGROUND**

22 Petitioner was convicted by a jury of one count of aggravated sexual  
23 assault of a child under the age of 14 years and two counts of rape by force,  
24 violence, duress menace or fear. On May 4, 2009, he was sentenced to 27 years  
25 to life in state prison.

26 Petitioner unsuccessfully appealed his conviction to the California Court  
27 of Appeal and the Supreme Court of California, which denied review on  
28 December 21, 2010. He also unsuccessfully sought habeas relief from the state

1 court. The Supreme Court of California denied his final petition for state habeas  
2 relief on December 14, 2011.

### 3 **DISCUSSION**

#### 4 A. Standard of Review

5 This court may entertain a petition for a writ of habeas corpus "in behalf  
6 of a person in custody pursuant to the judgment of a State court only on the  
7 ground that he is in custody in violation of the Constitution or laws or treaties of  
8 the United States." 28 U.S.C. § 2254(a).

9 It shall "award the writ or issue an order directing the respondent to show  
10 cause why the writ should not be granted, unless it appears from the application  
11 that the applicant or person detained is not entitled thereto." Id. § 2243.

#### 12 B. Claims

13 Petitioner seeks federal habeas corpus relief by raising several claims,  
14 including ineffective assistance of counsel, prosecutorial misconduct and false  
15 evidence. Liberally construed, the claims appear cognizable under § 2254 and  
16 merit an answer from respondent. See Zichko v. Idaho, 247 F.3d 1015, 1020 (9th  
17 Cir. 2001) (federal courts must construe pro se petitions for writs of habeas  
18 corpus liberally).

### 19 **CONCLUSION**

20 For the foregoing reasons and for good cause shown,

21 1. Petitioner's request to proceed in forma pauperis (docket # 3, 9 &  
22 14) is GRANTED.

23 2. The clerk shall serve a copy of this order and the petition and all  
24 attachments thereto on respondent and respondent's attorney, the Attorney  
25 General of the State of California. The clerk also shall serve a copy of this order  
26 on petitioner.

3. Respondent shall file with the court and serve on petitioner, within 60 days of the issuance 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 granted. Respondent shall file with the answer and serve on petitioner a copy of all portions of the state trial record that have been transcribed previously and that are relevant to a determination of the issues presented by the petition.

If petitioner 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.

4. Respondent may file a motion to dismiss on procedural grounds in lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If respondent files such a motion, petitioner must serve and file an opposition or statement of non-opposition not more than 28 days after the motion is served and filed, and respondent must serve and file a reply to an opposition not more than 14 days after the opposition is served and filed.

5. 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.

SO ORDERED.

DATED: July 31, 2012

  
CHARLES R. BREYER  
United States District Judge