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

|                         |   |                        |
|-------------------------|---|------------------------|
| REGGIE PETERS, AE0742,  | ) |                        |
|                         | ) |                        |
| Petitioner,             | ) | No. C 12-1668 CRB (PR) |
|                         | ) |                        |
| vs.                     | ) | ORDER TO SHOW CAUSE    |
|                         | ) |                        |
| GARY SWARTHOUT, Warden, | ) | (Docket # 2)           |
|                         | ) |                        |
| Respondent.             | ) |                        |
| _____                   | ) |                        |

Petitioner, a state prisoner incarcerated at California State Prison, Solano, has filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging a sentence from Alameda County Superior Court. He also seeks to proceed in forma pauperis under 28 U.S.C. § 1915.

**BACKGROUND**

Petitioner was convicted after a court trial of involuntary manslaughter, enhanced by a finding that he personally used a firearm in the commission of that crime, and of possession of a firearm by a felon. On June 18, 2010, he was sentenced to 12 years in state prison.

Petitioner unsuccessfully appealed his sentence to the California Court of Appeal. He also sought collateral relief from the Supreme Court of California, which denied his state habeas petition on December 14, 2011.

1 **DISCUSSION**

2 A. Standard of Review

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

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

10 B. Claims

11 Petitioner seeks federal habeas corpus relief on the ground that the  
12 personal use enhancement is unlawful because the conduct underlying his  
13 involuntary manslaughter conviction, brandishing a firearm, was only a  
14 misdemeanor. He also claims that the aggravated term he received for personal  
15 use of a firearm was an abuse of discretion. Liberally construed, the claims  
16 appear minimally cognizable under § 2254 and merit an answer from respondent.  
17 See Zichko v. Idaho, 247 F.3d 1015, 1020 (9th Cir. 2001) (federal courts must  
18 construe pro se petitions for writs of habeas 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 # 2) is  
22 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.

