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

JAIRO BRAVO PEDROZA, G40867,	)	
	)	
Petitioner,	)	No. C 12-4702 CRB (PR)
	)	
vs.	)	ORDER TO SHOW CAUSE
	)	
FRED FIGUEROA, Warden,	)	(Docket # 3)
	)	
Respondent.	)	
_____	)	

Petitioner, a California state prisoner incarcerated at Tallahatchie County Correctional Facility (TCCF) in Tutwiler, Mississippi, has filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging a conviction and sentence from Santa Clara County Superior Court. He also seeks to proceed in forma pauperis under 28 U.S.C. § 1915.

**BACKGROUND**

On May 12, 2008, petitioner pleaded no contest to attempted first degree burglary and admitted that he had suffered two prior strike convictions and two prior serious felony convictions in order to avoid a possible life sentence under California's Three Strikes Law. On November 14, 2008, the court struck one of the prior strikes and sentenced petitioner to 14 years in state prison. Petitioner appealed.



1 constitutional rights that occurred before the plea of guilty (or no contest). See  
2 Haring v. Prorise, 462 U.S. 306, 319-20 (1983) (guilty plea forecloses  
3 consideration of pre-plea constitutional deprivations); Tollett v. Henderson, 411  
4 U.S. 258, 266-67 (1973) (same). The only challenges left open in federal habeas  
5 corpus after a plea of guilty (or no contest) is the voluntary and intelligent  
6 character of the plea and the nature of the advice of counsel to plead. Hill v.  
7 Lockhart, 474 U.S. 52, 56-57 (1985); Tollett, 411 U.S. at 267. Petitioner's pre-  
8 plea claims accordingly are DISMISSED. See id. But liberally construed, his  
9 post-plea claims and claims implicating the validity of his plea appear cognizable  
10 under § 2254 and merit an answer from respondent. See Zichko v. Idaho, 247  
11 F.3d 1015, 1020 (9th Cir. 2001) (federal courts must construe pro se habeas  
12 petitions liberally).

### 13 CONCLUSION

14 For the foregoing reasons and for good cause shown,

- 15 1. Petitioner's request to proceed in forma pauperis (docket # 3) is  
16 GRANTED.
- 17 2. The clerk shall serve a copy of this order and the petition and all  
18 attachments thereto on respondent and respondent's attorney, the Attorney  
19 General of the State of California. The clerk also shall serve a copy of this order  
20 on petitioner.
- 21 3. Respondent shall file with the court and serve on petitioner, within  
22 60 days of the issuance of this order, an answer conforming in all respects to Rule  
23 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of  
24 habeas corpus should not be granted. Respondent shall file with the answer and  
25 serve on petitioner a copy of all portions of the state trial record that have been  
26 transcribed previously and that are relevant to a determination of the issues

1 presented by the petition.

2 If petitioner wishes to respond to the answer, he shall do so by filing a  
3 traverse with the court and serving it on respondent within 30 days of his receipt  
4 of the answer.

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

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

16 SO ORDERED.

17 DATED: Feb. 1, 2013

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20 CHARLES R. BREYER  
21 United States District Judge  
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