



1 shown cause for his procedural default in state court. Doc. #1 at  
2 viii.

3 II

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

12 Liberally construed, Petitioner's claims appear cognizable  
13 under 28 U.S.C. § 2254 and merit an Answer from Respondent. See  
14 Zichko v. Idaho, 247 F.3d 1015, 1020 (9th Cir. 2001) (federal courts  
15 must construe pro se petitions for writs of habeas corpus  
16 liberally).

17 III

18 For the foregoing reasons and for good cause shown,

19 1. The Clerk shall serve by certified mail a copy of  
20 this Order and the Petition, and all attachments thereto (Docs. ##1-  
21 3), on Respondent and Respondent's attorney, the Attorney General of  
22 the State of California. The Clerk also shall serve a copy of this  
23 Order on Petitioner.

24 2. Respondent shall file with the Court and serve on  
25 Petitioner, within sixty (60) days of the issuance of this Order, an  
26 Answer conforming in all respects to Rule 5 of the Rules Governing  
27 Section 2254 Cases, showing cause why a writ of habeas corpus should  
28

1 not be granted. Respondent shall file with the Answer and serve on  
2 Petitioner a copy of all portions of the state trial record that  
3 have been transcribed previously and that are relevant to a  
4 determination of the issues presented by the Petition.


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

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

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

20  
21 IT IS SO ORDERED.

22  
23 DATED 02/11/2013

  
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THELTON E. HENDERSON  
United States District Judge