

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MIGUEL GONZALEZ,
Petitioner,

No. C-13-0964 EMC (pr)

v.

ORDER ON INITIAL REVIEW

CONNIE GIPSON, Warden,
Respondent.

_____ /

I. INTRODUCTION

Miguel Gonzalez, an inmate at the California State Prison in Corcoran, filed this *pro se* action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. His petition is now before the Court for review pursuant to 28 U.S.C. §2243 and Rule 4 of the Rules Governing Section 2254 Cases.

II. BACKGROUND

The petition and attachments disclose the following: Petitioner was convicted upon a no-contest plea in the Santa Cruz County Superior Court of assault committed while released on his own recognizance. *See* Docket # 1, p. 2. On July 15, 2008, he was sentenced to a term of 12 years in prison. *See id.* at 2 and Docket # 2, p. 35. His petition indicates that he did not appeal his conviction. He did, however, file several unsuccessful petitions for writ of habeas corpus in the state courts.

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1 the petition. If the petition is time-barred, the litigants and Court need not expend resources
2 addressing the claims in the petition. Accordingly, pursuant to Rule 4 of the Rules Governing
3 Section 2254 Cases In The United States District Courts, Respondent must either (1) move to
4 dismiss the petition on the ground that it is untimely, or (2) inform the Court that Respondent is of
5 the opinion that a motion to dismiss is unwarranted in this case.

6 **IV. CONCLUSION**

7 Good cause appearing therefor,

8 1. The Clerk shall serve by certified mail a copy of this order and the petition upon
9 Respondent and Respondent's attorney, the Attorney General of the State of California. The Clerk
10 shall also serve a copy of this order on Petitioner.

11 2. Respondent must file with the Court and serve upon Petitioner, on or before
12 **June 28, 2013**, a motion to dismiss the petition or a notice that Respondent is of the opinion that a
13 motion to dismiss is unwarranted.

14 3. If Petitioner wishes to oppose the motion to dismiss, he must do so by filing an
15 opposition with the Court and serving it upon Respondent on or before **July 26, 2013**.

16 4. Respondent may file and serve a reply on or before **August 9, 2013**.

17 5. The motion will be deemed submitted as of the date the reply brief is due. No
18 hearing will be held on the motion. If Respondent notifies the Court that a motion to dismiss is
19 unwarranted or the motion to dismiss is decided against Respondent, the Court will then determine
20 whether to require an answer to the petition.

21 6. Petitioner's *in forma pauperis* application is GRANTED. (Docket # 3.)

22
23 IT IS SO ORDERED.

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25 Dated: April 23, 2013

26 
27 EDWARD M. CHEN
28 United States District Judge