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**United States District Court**  
For the Northern District of California

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

TYRONE MORGAN,  
Petitioner,  
v.  
K. CHAPPELL, Warden,  
Respondent.

No. C 14-1203 WHA (PR)

**ORDER TO SHOW CAUSE**

**INTRODUCTION**

Petitioner, a California prisoner incarcerated at San Quentin State Prison, filed this pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254 challenging disciplinary findings that resulted in his loss of "good time" credits. He has paid the filing fee. For the reasons discussed below, respondent is ordered to show cause why the petition should not be granted.

**ANALYSIS**

**A. STANDARD OF REVIEW**

This court may entertain a petition for writ of habeas corpus "in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. 2254(a); *Rose v. Hodges*, 423 U.S. 19, 21 (1975). Habeas corpus petitions must meet heightened pleading requirements. *McFarland v. Scott*, 512 U.S. 849, 856 (1994). An application for a federal writ

1 of habeas corpus filed by a prisoner who is in state custody pursuant to a judgment of a state  
2 court must “specify all the grounds for relief which are available to the petitioner ... and shall  
3 set forth in summary form the facts supporting each of the grounds thus specified.” Rule 2(c) of  
4 the Rules Governing Section 2254 Cases, 28 U.S.C. foll. 2254. “[N]otice’ pleading is not  
5 sufficient, for the petition is expected to state facts that point to a ‘real possibility of  
6 constitutional error.’” Rule 4 Advisory Committee Notes (quoting *Aubut v. Maine*, 431 F.2d  
7 688, 689 (1st Cir. 1970)).

8 **B. LEGAL CLAIMS**

9 Petitioner alleges that prison officials found him guilty of possession of a cell phone in  
10 prison and assessed a loss of 90 days of “good-time” credits. He claims that he was not  
11 provided notice that this violated prison rules, as required by due process. When liberally  
12 construed, this claim is sufficient to warrant an answer from respondent.

13 **CONCLUSION**

14 1. The clerk shall mail a copy of this order and the petition with all attachments to the  
15 respondent and the respondent's attorney, the Attorney General of the State of California. The  
16 clerk shall also serve a copy of this order on the petitioner.

17 2. Respondent shall file with the court and serve on petitioner, within ninety-one days  
18 of the issuance of this order, an answer conforming in all respects to Rule 5 of the Rules  
19 Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be  
20 granted based on the claim found cognizable herein. Respondent shall file with the answer and  
21 serve on petitioner a copy of all portions of the state prison disciplinary proceedings that are  
22 relevant to a determination of the issues presented by the petition.

23 If petitioner wishes to respond to the answer, he shall do so by filing a traverse with the  
24 court and serving it on respondent within twenty-eight days of the date the answer is filed.

25 3. Respondent may file, within ninety-one days, a motion to dismiss on procedural  
26 grounds in lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the  
27 Rules Governing Section 2254 Cases. If respondent files such a motion, petitioner shall file  
28 with the court and serve on respondent an opposition or statement of non-opposition within


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twenty-eight days of the date the motion is filed, and respondent shall file with the court and serve on petitioner a reply within fourteen days of the date any opposition is filed.

4. 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 keep the court informed of any change of address and must comply with the court's orders in a timely fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). *See Martinez v. Johnson*, 104 F.3d 769, 772 (5th Cir. 1997) (Rule 41(b) applicable in habeas cases).

**IT IS SO ORDERED.**

Dated: April   1  , 2014.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE