

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CARLOS JOSEPH ZUNIGA,
Petitioner,

v.

C. E. DUCART,
Respondent.

Case No. [14-cv-03489-JSC](#)

ORDER TO SHOW CAUSE

Petitioner, a prisoner of the State of California proceeding pro se, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging his conviction and sentence in state court.¹ He has paid the filing fee. Because the petition states cognizable claims for relief, a response from Respondent is warranted.

BACKGROUND

In 2010, Petitioner was convicted in Santa Cruz County Superior Court of assault after entering a guilty plea. Based upon this conviction and a number of sentencing enhancements, including those for prior convictions, the trial court sentenced Petitioner to a term of 20 years in state prison. Petitioner did not appeal the judgment directly. Beginning in 2013, however, he filed habeas petitions in the superior court, the California Court of Appeal, and the California Supreme Court, all of which were denied. The instant federal petition followed.

¹ Petitioner has consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). (Dkt. No. 1 at 7.)

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transcribed previously and that are relevant to a determination of the issues presented by the petition. If Petitioner wishes to respond to the answer, he shall do so by filing a traverse (a reply) with the Court and serving it on Respondent within **twenty-eight (28) days** of the date the answer is filed.

3. Respondent may, within **ninety-one (91) days** of the date this Order is issued, file a motion to dismiss on procedural grounds in lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an opposition or statement of non-opposition within **twenty-eight (28) days** of the date the motion is filed, and Respondent shall file with the Court and serve on Petitioner a reply within **fourteen (14) days** of the date any opposition is filed.

4. It is Petitioner’s responsibility to prosecute this case. Petitioner must keep the Court informed of any change of address by filing a separate paper captioned “Notice of Change of Address.” He 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).

IT IS SO ORDERED.

Dated: September 30, 2014



JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE