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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PRIMITIVO CAMPOS,
Plaintiff.

v.

DANIEL STONE,
Defendant.

Case No. 15-cv-04298-EDL

ORDER TO SHOW CAUSE

Petitioner Primitivo Campos, currently on parole, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

BACKGROUND

Petitioner was convicted by a jury in the Superior Court of the State of California in and for the County of San Jose of lewd acts on a child in violation of California Penal Code section 288(a), a felony, and the lesser included offense of misdemeanor simple battery under Penal Code sections 242 and 243(a). On or about September 21, 2012, he was sentenced to three years in state prison and later deported. Petitioner unsuccessfully appealed his conviction to the California Court of Appeal and the Supreme Court of California, which on January 14, 2015 denied review of a petition allegedly raising the same claims raised here.

DISCUSSION

A. Legal Standard

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). It shall "award the writ or issue an order directing the respondent to show cause why the writ should not

1 be granted, unless it appears from the application that the applicant or person detained is not
2 entitled thereto.” 28 U.S.C. § 2243.

3 Summary dismissal is appropriate only where the allegations in the petition are vague or
4 conclusory, palpably incredible, or patently frivolous or false. See Hendricks v. Vasquez, 908
5 F.2d 490, 491 (9th Cir. 1990).

6 B. Petitioner’s Legal Claims

7 Petitioner seeks federal habeas corpus relief by raising the following claims: violation of
8 his Fifth and Fourteenth Amendment right to due process due to introduction into evidence of
9 involuntary statements to police and violation of his Sixth Amendment right to effective assistance
10 of counsel.

11 Liberally construed, the claims appear colorable under 28 U.S.C. § 2241 (or 2254) and
12 merit an answer from respondents.

13 **CONCLUSION**

14 For the foregoing reasons and for good cause shown

- 15 1. The clerk shall serve by certified mail a copy of this order and the petition and
16 all attachments thereto upon respondents. The clerk shall also serve a copy of
17 this order on petitioner.
- 18 2. Respondents shall file with the court and serve on petitioner, within 60 days of
19 the date of this order, an answer showing why a writ of habeas corpus should
20 not be issued (or -an answer conforming in all respects to Rule 5 of the Rules
21 Governing Section 2254 Cases, showing cause why a writ of habeas corpus
22 should not be issued). Respondent shall file with the answer and serve on
23 petitioner a copy of all portions of the administrative record that are relevant to
24 a determination of the issues presented by the petition.
- 25 3. If the petitioner wishes to respond to the answer, he shall do so by filing a
26 traverse with the court and serving it on respondent within 30 days of his
27 receipt of the answer.

28 **IT IS SO ORDERED.**

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Dated: September 22, 2015


ELIZABETH D. LAPORTE
United States Magistrate Judge