UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

San Francisco Division

STEVEN M. GILL, Petitioner, v. MACDONALD, Respondent.	Case No. 16-cv-01177-LB **ORDER TO SHOW CAUSE** [Re: ECF Nos. 1, 2, 5]

INTRODUCTION

Steven M. Gill, a California prisoner housed at the La Palma Correctional Center in Eloy, Arizona, filed this *pro se* action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He consented to proceed before a magistrate judge. (ECF No. 4.)[1] 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 in the United States District Courts. This order requires the respondent to respond to the petition.

STATEMENT

Mr. Gill's petition and attachments provide the following information: Mr. Gill was charged in Contra Costa County Superior Court. He entered a guilty plea to charges of first degree robbery, first degree residential burglary, receiving stolen property, and dissuading a witness with a prior

[1] Citations are to the Electronic Case File ("ECF"); pin cites are to the ECF-generated page numbers at the tops of the documents.

conviction for dissuading a witness. The court also found true several sentence enhancement allegations. On October 5, 2012, Mr. Gill was sentenced to a total of 19 years and 8 months in prison. According to Mr. Gill, that term later was reduced to 17 years in prison.

He appealed and filed a state petition for writ of habeas corpus. The California Court of Appeal affirmed Mr. Gill's conviction and denied his petition for writ of habeas corpus in 2013 or 2015. (*See* ECF No. 1 at 3.) The California Supreme Court denied his petition for review in 2015.

ANALYSIS

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). A district court considering an application for a writ of habeas corpus shall "award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

The petition alleges that Mr. Gill received ineffective assistance of counsel in the proceedings leading up to and culminating with his entry of a guilty plea in the superior court. Liberally construed, the claim is cognizable in a federal habeas action and warrants a response.

CONCLUSION

For the foregoing reasons,

1. The petition warrants a response.

2. The clerk shall serve by mail a copy of this order, the petition and all attachments thereto upon the respondent and the respondent's attorney, the Attorney General of the State of California. The clerk shall also serve a copy of this order on the petitioner.

3. The respondent must file and serve upon the petitioner, on or before **June 10, 2016**, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. The respondent must file with the answer a copy of all portions of the court proceedings that have been previously transcribed and that are relevant to a determination of the issues presented by the petition.

4. If the petitioner wishes to respond to the answer, he must do so by filing a traverse with the court and serving it on the respondent on or before **July 8, 2016**.

5. The petitioner is responsible for prosecuting this case. The petitioner must promptly keep the court informed of any change of address and must comply with the court's orders in a timely fashion.

6. The petitioner is cautioned that he must include the case name and case number for this case on the first page of any document he submits to the court for consideration in this case.

7. The petitioner's *in forma pauperis* application is DENIED. (ECF Nos. 2, 5.)

IT IS SO ORDERED.

Dated: April 4, 2016

LAUREL BEELER
United States Magistrate Judge

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

STEVEN M. GILL, Plaintiff, v. MACDONALD, Defendant.	Case No. 3:16-cv-01177-LB **CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 4, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Steven M. Gill ID: V91782
La Palma Correctional Center
5501 N. La Palma Road
Eloy, AZ 85131

Dated: April 4, 2016

Susan Y. Soong
Clerk, United States District Court

By: L. Scott
Lashanda Scott, Deputy Clerk to the
Honorable LAUREL BEELER