

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

JOSE ARNALDO RODRIGUES,

No. C 96-01831 CW

Petitioner,

ORDER FOR ORAL
ARGUMENT

v.

W.L. MONTGOMERY, Warden,

Respondent.

_____ /

United States District Court
For the Northern District of California

The Court is tentatively inclined to deny the petition for writ of habeas corpus. However, the Court wishes to hear legal argument regarding Petitioner's competence to stand trial (claim one), trial counsel's failure to seek a competency hearing (claim three), trial counsel's allegedly ineffective assistance in failing to investigate and present evidence that Petitioner was incompetent to stand trial (claim nine), appellate counsel's alleged ineffective assistance in failing to raise claim nine (claim forty-four), Juror Langston's alleged bias (claim four) and all related requests for discovery and evidentiary hearings. Thus, the Court orders counsel for both sides to appear for oral argument on Tuesday, April 26, 2016 at 2:30 PM, or on a later Tuesday convenient for counsel when the Court is available. Petitioner's presence will not be necessary.

Counsel shall be prepared to discuss all issues relating to these claims and the following issues in particular:

- 1) If the Court were to grant an evidentiary hearing as to the competency claims, what pre-hearing discovery and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

examinations would be requested? If it were determined that
Petitioner was incompetent at the time of his trial, would it
be appropriate for this Court to consider whether he is
competent now or could be restored to competency?

- 2) Are the doctors who examined Petitioner before and during
trial available to be deposed and to testify if an
evidentiary hearing were held?
- 3) As to claim four, if the Court were to conclude that de novo
review is appropriate, would Petitioner be entitled to relief
under Dyer v. Calderon, 151 F.3d 970 (9th Cir. 1998) (en
banc) and its progeny?
- 4) Is Juror Langston available to be deposed and to testify if
an evidentiary hearing were held?
- 5) Are Petitioner's defense and appellate attorneys available to
be deposed and to testify if an evidentiary hearing were
held?

IT IS SO ORDERED.

Dated: March 25, 2016



CLAUDIA WILKEN
United States District Judge