

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

3
4 JOHN SHAW aka JOHN HSIA,
5 Petitioner,

No. C 13-1739 CW (PR)
ORDER TO SHOW CAUSE

6 v.

7 RALPH M. DIAZ, Warden,
8 Respondent.

9
10 _____/
11 Petitioner, a state prisoner, has filed this pro se petition
12 for a writ of habeas corpus pursuant to 28 U.S.C. § 2254,
13 challenging his criminal conviction. He has paid the \$5.00 filing
14 fee. It does not appear from the face of the petition that it is
15 without merit.¹ Good cause appearing, the Court hereby issues the
16 following orders:

17 1. The Clerk of the Court shall serve a copy of this Order
18 and the petition and all attachments thereto upon Respondent and
19 Respondent's attorney, the Attorney General of the State of
20 California.² The Clerk shall also serve a copy of this Order on
21 Petitioner at his current address.

22 2. No later than sixty days from the date of this Order,
23 Respondent shall file with this Court and serve upon Petitioner an

24 _____
25 ¹ The Court refers Respondent to Petitioner's prior habeas
26 action which the Court dismissed for failure to exhaust state
27 remedies. See Shaw v. Wong, C 09-0077 CW (PR).

28 ² Ralph M. Diaz, the warden at the California Substance Abuse
and Treatment Facility at Corcoran, where Petitioner is
incarcerated, has been substituted as Respondent pursuant to Rule
25(d) of the Federal Rules of Civil Procedure.

1 Answer conforming in all respects to Rule 5 of the Rules Governing
2 Section 2254 Cases, showing cause why a writ of habeas corpus
3 should not be issued. Respondent shall file with the Answer all
4 portions of the state record that have been transcribed previously
5 and are relevant to a determination of the issues presented by the
6 petition.

7 If Petitioner wishes to respond to the Answer, he shall do so
8 by filing a Traverse with the Court and serving it on Respondent
9 no later than thirty days from his receipt of the Answer. If he
10 does not do so, the petition will be deemed submitted and ready
11 for decision on the date the Traverse is due.

12 3. No later than sixty days from the date of this Order,
13 Respondent may file with this Court and serve upon Petitioner a
14 motion to dismiss on procedural grounds in lieu of an Answer, as
15 set forth in the Advisory Committee Notes to Rule 4 of the Rules
16 Governing Section 2254 Cases.

17 If Respondent files such a motion, Petitioner shall file with
18 the Court and serve on Respondent an opposition or statement of
19 non-opposition to the motion within twenty-eight days of receipt
20 of the motion, and Respondent shall file with the Court and serve
21 on Petitioner a reply within fourteen days of receipt of an
22 opposition.


23 4. It is Petitioner's responsibility to prosecute this
24 case. He must keep the Court and Respondent informed of any
25 change of address and comply with the Court's orders in a timely
26 fashion. He also must serve on Respondent's counsel all
27 communications with the Court by mailing a true copy of the
28 document to Respondent's counsel.

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5. Extensions of time are not favored, though reasonable extensions will be granted. Any motion for an extension of time must be filed no later than ten days prior to the deadline sought to be extended.

IT IS SO ORDERED.

Dated: 6/5/2013



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE