

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

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DAVID RODRIGUEZ,  
Petitioner,  
v.  
J. LIZARRAGA,  
Respondent.

Case No. [14-cv-03620-PJH](#)

**ORDER TO FILE A RESPONSE**

Petitioner, proceeds with a pro se petition for a writ of habeas corpus. In the original petition, the sole ground for relief asserted that the trial court issued an erroneous jury instruction regarding voluntary intoxication that failed to describe the relationship between petitioner's methamphetamine use and the specific intent required for first degree murder by means of torture.

The case was later stayed so petitioner could exhaust additional claims. Petitioner has now filed a motion to lift the stay and an amended petition. However the only claim in the amended petition is the claim regarding the jury instruction from the original petition.

**Within 7 days**, petitioner must indicate if he only wishes to proceed with this one claim. If petitioner wishes to proceed with additional claims, he must demonstrate they have been exhausted by attaching the petition to the California Supreme Court. Failure to file a response will result in this case continuing on the one claims discussed above.

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

**IT IS SO ORDERED.**

Dated: July 10, 2015



---

PHYLLIS J. HAMILTON  
United States District Judge

\\CANDOAK\Data\Users\PJHALL\\_psp\2014\2014\_03620\_Rodriguez\_v\_Lizarraga\_(PSP)\14-cv-03620-PJH-\_ord.docx

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

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DAVID RODRIGUEZ,  
Plaintiff,  
v.  
J. LIZARRAGA,  
Defendant.

Case No. [14-cv-03620-PJH](#)

**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 July 10, 2015, 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.

David Rodriguez ID: AL2755  
Mule Creek State Prison  
P.O. Box 409040  
Ione, CA 95640

Dated: July 10, 2015

Richard W. Wieking  
Clerk, United States District Court



By: \_\_\_\_\_  
Nichole Peric, Deputy Clerk to the  
Honorable PHYLLIS J. HAMILTON