

FILED

JAN 25 2006

CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

RICHARD GUTIERREZ,

Petitioner,

v.

A.J. MALFI, Warden,

Respondent.

Case Number C-06-307-JF

ORDER TO SHOW CAUSE

Petitioner, a state prisoner currently incarcerated at the Vallecito-CC#1 State Prison, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner is represented by counsel.

IT IS ORDERED as follows:

(1) The Clerk of the Court shall serve by certified mail a copy of the petition and a copy of this Order upon counsel for Respondent, the Attorney General of the State of California. The Clerk of the Court also shall serve a copy of this Order upon counsel for Petitioner, John Doyle.

(2) Respondent shall, within thirty (30) days after receiving this order, file and serve upon Petitioner's counsel an answer conforming in all respects to Rule 5 of the Rules Governing

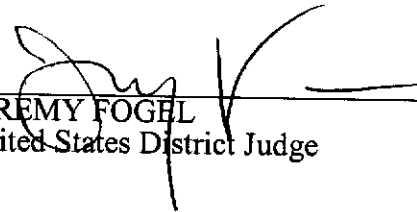
1 Section 2254 Cases, showing cause why a writ of habeas corpus should not issue. At the time
2 the answer is filed, Respondent shall lodge with the Court all records relevant to a determination
3 of the issues presented by the petition. If Respondent contends that Petitioner has failed to
4 exhaust state remedies as to any ground for relief asserted in the petition, Respondent shall
5 specify what state remedy remains available to Petitioner. If Respondent waives or concedes the
6 issue of exhaustion, Respondent shall so state in the answer.

7 (3) Petitioner may file a traverse responding to matters raised in the answer within
8 thirty (30) days after receiving the answer.

9 (4) Unless otherwise ordered by the Court, the matter will be deemed submitted upon
10 the filing of the traverse or upon the expiration of time to file a traverse.

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DATED: 1-24-06


JEREMY FOGEL
United States District Judge

1 Copies of Order mailed on 1-25-06 to:

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3 Counsel for Petitioner:

4 John Doyle, Attorney at Law
5 Pier 29 Annex
6 San Francisco, CA 94111

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8 Counsel for Respondent:

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9 Office of the Attorney General of the State of California
10 455 Golden Gate Avenue
11 Suite 11000
12 San Francisco, CA 94102-3664

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