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

DIEGO A. JARAMILLO,)	No. C 10-03781 JW (PR)
Petitioner,)	ORDER TO SHOW CAUSE
vs.)	
)	
RANDY GROUNDS, Warden,)	
Respondent.)	
_____)	

Petitioner, a California inmate at the Correctional Training Facility in Soledad proceeding pro se, seeks a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the denial of parole by the Board of Parole Hearings (“Board”) in 2008. Petitioner has paid the filing fee. (Docket No. 4.)

BACKGROUND

In 1996, Petitioner was found guilty in San Bernardino County Superior Court of second degree murder with the use of a deadly weapon. (Pet. at 2.) Petitioner was sentenced to 15 years to life plus one year in state prison. (Id.) After an initial parole suitability hearing on March 5, 2008, the Board found Petitioner unsuitable for parole. Petitioner sought habeas relief in the state superior, appellate, and supreme courts, all of

1 which were denied. (Id. at 5.) Petitioner filed the instant federal petition on August 25,
2 2010.

3 4 DISCUSSION

5 A. Standard of Review

6 This Court may entertain a petition for writ of habeas corpus “in behalf of a
7 person in custody pursuant to the judgment of a state court only on the ground that he is
8 in custody in violation of the Constitution or laws or treaties of the United States.” 28
9 U.S.C. § 2254(a); Rose v. Hodges, 423 U.S. 19, 21 (1975).

10 A district court shall “award the writ or issue an order directing the respondent to
11 show cause why the writ should not be granted, unless it appears from the application
12 that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

13 B. Petitioner’s Claims

14 As grounds for federal habeas relief, petitioner claims that he was denied due
15 process when the Board denied parole “without ‘some evidence’, and ‘rational nexus’
16 from past to present... [that] his parole release would pose a current or future
17 ‘unreasonable rusk of danger to public safety.’” Liberally construed, petitioner’s claim
18 appears cognizable under § 2254 and merits an answer from respondent.

19 20 CONCLUSION

21 1. The clerk shall serve by certified mail a copy of this order and the
22 petition and all attachments thereto on respondent and respondent’s attorney, the
23 Attorney General of the State of California. The clerk also shall serve a copy of this
24 order on petitioner.

25 2. Respondent shall file with the court and serve on petitioner, within **sixty**
26 **(60) days** of the issuance of this order, an answer conforming in all respects to Rule 5 of
27 the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus
28 should not be issued. Respondent shall file with the answer and serve on petitioner a

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copy of all portions of the state trial record that have been transcribed previously and that are relevant to a determination of the issues presented by the petition.

If petitioner wishes to respond to the answer, he shall do so by filing a traverse with the court and serving it on respondent within **thirty (30) days** of his receipt of the answer.

3. Respondent may file a motion to dismiss on procedural grounds in lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If respondent files such a motion, petitioner shall file with the court and serve on respondent an opposition or statement of non-opposition within **thirty (30) days** of receipt of the motion, and respondent shall file with the court and serve on petitioner a reply within **fifteen (15) days** of receipt of any opposition.

4. Petitioner is reminded that all communications with the court must be served on respondent by mailing a true copy of the document to respondent's counsel. Petitioner must also keep the court and all parties informed of any change of address.

DATED: January 12, 2011



JAMES WARE
United States District Chief Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

DIEGO A. JARAMILLO,
Petitioner,

Case Number: CV10-03781 JW

CERTIFICATE OF SERVICE

v.

RANDY GROUNDS, Warden,
Respondent.

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 1/31/2011, 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.

Diego A. Jaramillo K-01103
CTF
P. O. Box 689
Soledad, CA 93960

Dated: 1/31/2011

/s/ Richard W. Wieking, Clerk
By: Elizabeth Garcia, Deputy Clerk