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United States District Court
For the Northern District of California

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

RICHARD SANDERSON,)	No. C 12-01595 EJD (PR)
)	
Petitioner,)	ORDER TO SHOW CAUSE
)	
vs.)	
)	
BOBBY PHILLIPS, Warden,)	
)	
Respondent.)	
_____)	

Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his state conviction. Petitioner has paid the filing fee. (See Docket No. 1.)

BACKGROUND

According to the petition, Petitioner pleaded guilty in Humboldt County Superior Court to voluntary manslaughter, use of a firearm, and robbery. (Pet. at 2.) Petitioner was sentenced on June 15, 2009, to 22 years and 4 months in state prison. (Id.)

Petitioner appealed his conviction, and the state appellate court remanded for resentencing on January 22, 2008. Petitioner appealed the matter after resentencing,

1 and the state appellate court affirmed the judgment on February 16, 2011. The state
2 high court denied review on April 27, 2011. (Id. at 2-3.) Petitioner filed state
3 habeas petitions, with the California Supreme Court denying review on December
4 14, 2011.

5 Petitioner filed the instant federal habeas petition on March 30, 2012.

7 DISCUSSION

8 A. Standard of Review

9 This court may entertain a petition for a writ of habeas corpus “in behalf of a
10 person in custody pursuant to the judgment of a State court only on the ground that
11 he is in custody in violation of the Constitution or laws or treaties of the United
12 States.” 28 U.S.C. § 2254(a).

13 It shall “award the writ or issue an order directing the respondent to show
14 cause why the writ should not be granted, unless it appears from the application that
15 the applicant or person detained is not entitled thereto.” Id. § 2243.

16 B. Legal Claims

17 Petitioner claims that his counsel rendered ineffective assistance because he
18 failed to present mitigating evidence. Liberally construed, his claim is cognizable
19 under § 2254 and merits an answer from Respondent.

21 CONCLUSION

22 For the foregoing reasons and for good cause shown,

23 1. The Clerk shall serve by certified mail a copy of this order and the
24 petition and all attachments thereto on Respondent and Respondent’s attorney, the
25 Attorney General of the State of California. The Clerk also shall serve a copy of this
26 order on Petitioner.

27 2. Respondent shall file with the court and serve on petitioner, within
28 **sixty (60) days** of the issuance of this order, an answer conforming in all respects to

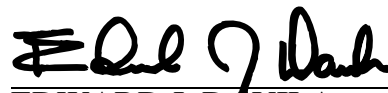
1 Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of
2 habeas corpus should not be issued. Respondent shall file with the answer and serve
3 on Petitioner a copy of all portions of the state trial record that have been transcribed
4 previously and that are relevant to a determination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

6 If Petitioner wishes to respond to the answer, he shall do so by filing a
7 traverse with the Court and serving it on Respondent within **thirty (30) days** of his
8 receipt of the answer.

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

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

20
21 DATED: 7/2/2012



22 EDWARD J. DAVILA
23 United States District Judge
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27
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

RICHARD SANDERSON,
Petitioner,

Case Number: CV12-01595 EJD
CERTIFICATE OF SERVICE

v.

BOBBY PHILLIPS, 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 7/5/2012, 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.

Richard Sanderson F-43953
Tallahatchie County Correctional Facility
415 U. S. Highway 49 North
Tutwiler, MS 38963

Dated: 7/5/2012

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