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

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|----------------|---|-------------------------|
| LEONEL LAREDO, |) | No. C 12-05674 EJD (PR) |
| Petitioner, |) | ORDER TO SHOW CAUSE |
| v. |) | |
| LEWIS, et al., |) | |
| Respondents. |) | |

Petitioner, a state prisoner incarcerated at the Pelican Bay State Prison, has filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was dismissed on February 13, 2013, and then reopened on March 22, 2013, after the Court granted Petitioner’s motion for reconsideration. (See Docket No. 6.) Petitioner has paid the filing fee.

BACKGROUND

According to the petition, Petitioner is confined to the Secured Housing Unit (“SHU”) at Pelican Bay State Prison and is no longer eligible to earn good time credits based on a 2010 change in California law. (Pet. at 8.)

Petitioner filed a habeas petition in the state superior court which was dismissed on

1 August 5, 2011. (Pet. at 4.) It is unclear whether Petitioner filed his claims in the state
2 supreme court.

3 DISCUSSION

4 A. Standard of Review

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

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

12 B. Legal Claims

13 Petitioner claims that his rights under the Ex Post Facto clause were violated with
14 the amendment to a state law that precludes good time credits while in the SHU.
15 Petitioner denies that he is validated gang member, and that he is entitled to earn good
16 time credits according to his plea deal with the state. Liberally construed, Petitioner’s
17 claim is cognizable under § 2254 and merits an answer from Respondent.

19 CONCLUSION

20 For the foregoing reasons and for good cause shown,

21 1. The Clerk shall serve by certified mail a copy of this order and the
22 petition (Docket No. 1) and all attachments thereto on Respondent and Respondent’s
23 attorney, the Attorney General of the State of California. The Clerk also shall serve a
24 copy of this order on Petitioner.

25 2. Respondent shall file with the court and serve on petitioner, within **fifty-six**
26 **(56) 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

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

3 If Petitioner wishes to respond to the answer, he shall do so by filing a traverse
4 with the Court and serving it on Respondent within **twenty-eight (28) days** of his receipt
5 of the answer.

6 3. Respondent may file a motion to dismiss on procedural grounds in lieu of
7 an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules
8 Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall file
9 with the Court and serve on Respondent an opposition or statement of non-opposition
10 within **twenty-eight (28) days** of receipt of the motion, and Respondent shall file with the
11 court and serve on Petitioner a reply within **fourteen (14) days** of receipt of any
12 opposition.

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

17 DATED: 4/26/2013

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19 EDWARD J. DAVILA
20 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

LEONEL LAREDO,
Petitioner,

Case Number: CV12-05674 EJD

CERTIFICATE OF SERVICE

v.

LEWIS, et al.,
Respondents.

_____/

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 4/29/2013, 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.

Leonel Laredo J-81213
Pelican Bay State Prison
P.O. Box 7500
Crescent City, CA 95532

Dated: 4/29/2013

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