

1
2
3
4
5
6
7
8
9
10
11

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

12 JESSE LYLE GEHRKE

13 Petitioner,

14 vs.

15 R. SULLIVAN, Warden,

16 Respondent.

CASE NO. 07cv0575 IEG (LSP)

**ORDER (1) ADOPTING THE
MAGISTRATE JUDGE'S REPORT
and (2) DENYING THE PETITION
FOR WRIT OF HABEAS CORPUS
(Doc. 9, 18)**

17 On July 30, 2007, petitioner Jesse Lyle Gehrke, a state prisoner proceeding pro se, filed an
18 Second Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 challenging his
19 San Diego Superior Court conviction for assault with a deadly weapon and assault by a life prisoner.
20 (Doc. No. 9.) Petitioner advances two claims: (1) the trial court denied his right to due process by
21 requiring him to be shackled during trial; (2) the trial court denied his right to due process by
22 instructing the jury that the could be liable for inflicting injury if he participated in a group beating
23 of the victim.

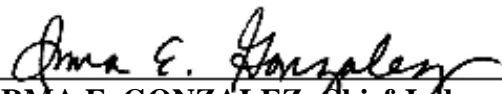
24 This matter was referred to United States Magistrate Judge Leo S. Papas pursuant to 28 U.S.C.
25 § 636(b)(1)(B). On November 20, 2007, Magistrate Judge Papas issued a Report and
26 Recommendation recommending the Court deny the petition for writ of habeas corpus in its entirety
27 because the California Court of Appeal's decision in petitioner's case was not contrary to nor an
28 unreasonable application of federal law. (Doc. No. 18.) Neither party has filed objections to the

1 Report, which were due December 20, 2007.

2 Accordingly, the Court ADOPTS the Report in its entirety, and DENIES the petition for writ
3 of habeas corpus.

4
5 IT IS SO ORDERED.

6
7 **DATED: February 1, 2008**

8 
9 **IRMA E. GONZALEZ, Chief Judge**
10 **United States District Court**

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28