

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ANTONIO ROJAS,

Petitioner,

v.

Case No. 8:06-cv-1273-T-26TGW

SECRETARY, Dep't of Corrections,

Respondent.

ORDER

Rojas filed a petition for writ of habeas corpus and paid the required filing fee.

Having reviewed the petition (Dkt. 1) and supporting memorandum (Dkt. 2), the court finds that the petition warrants service on the named respondent.

ACCORDINGLY, it is **ORDERED AND ADJUDGED** that the clerk shall send a copy of this order, the petition (Dkt. 1), and the memorandum (Dkt. 2) submitted with the petition, to the respondent, including the Attorney General of the State of Florida. A copy of this order shall also be served on Rojas.

Respondent shall, **within thirty-five (35) days**, respond to the petition for writ of habeas corpus (hereinafter petition) and show cause why the petition should not be granted.

The response shall respond to the allegations of the petition. In addition, it shall state whether Rojas has exhausted his state remedies including any post-conviction remedies

available to him under the statutes or procedural rules of the state and including also the right of appeal both from the judgment of conviction and from any adverse judgment or order in the post-conviction proceedings. If it is denied that Rojas has exhausted his state remedies, the response shall contain in detail an explanation of which state remedies are available to Rojas.

The response shall also state whether an evidentiary hearing was accorded Rojas in a court of the state at either the pre-trial, trial, or post-conviction stage. If such an evidentiary hearing was conducted, the response shall state whether a transcript of the proceedings is presently available and, if not, whether and approximately when it may be procured. If the transcript is presently available, or is procurable within the time fixed for filing the response, it shall be filed by the respondent with the response and the record of the pre-trial, trial, and/or post-conviction proceedings. Otherwise, the response and record shall be filed within that time and the transcript shall subsequently be procured by the respondent and filed.

If Rojas appealed from the judgment of conviction or from an adverse judgment or order in a post-conviction proceeding, a copy of the briefs on appeal and of the opinion of the appellate court, if any, shall also be filed by Respondent with the response. In addition, the response shall contain the citation(s) to the state court opinion(s) that is (are) reported.

The response shall also state whether or not the United States District Court Judge presiding over this case or the United States Magistrate Judge assigned to this case was

involved in any of the state court proceedings in the Rojas's case. Respondents have an ongoing duty to inform the Court of such involvement if the case is hereafter reassigned to another judicial officer.

Before counsel has appeared for the respondent, Rojas shall send to the respondent a copy of every further pleading, motion, or other paper submitted to be filed in this case and to be considered by the court. After counsel has appeared for the respondent, the copy shall be sent directly to counsel for the respondent, rather than to the respondent personally. Rojas shall include with the original pleading or other paper that is submitted to be filed a certificate stating the date that an accurate copy of the pleading or other paper was mailed to the respondent or counsel for the respondent. If any pleading or other paper submitted to be filed and considered by the court does not include a certificate of service upon the respondent or counsel for the respondent, it will be stricken from this case and disregarded by the court. Rojas shall advise the court of his current mailing address at all times, especially if Rojas is released from custody. Failure to do so may result in the dismissal of this action.

Both parties shall insure that all transcripts, briefs and other documentary exhibits accompanying any pleadings which they submit to the court shall be individually marked

for identification and a table of contents or index shall be included to aid the court in location of such documentary exhibits.

DONE AND ORDERED in Tampa, Florida, on July 26, 2006.

s/Richard A. Lazzara

RICHARD A. LAZZARA
UNITED STATES DISTRICT JUDGE

SA/ro