UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 13-11725-RWZ

JESSE KASENGE

v.

KELLY RYAN, Superintendent

ORDER

November 21, 2013

ZOBEL, D.J.

A jury convicted Jesse Kasenge of two counts of distribution of cocaine (second or subsequent offense)[1] in violation of Mass. Gen. L. 94C § 32A(d) and one count of distribution of cocaine within a school zone in violation of Mass. Gen. L. 94C § 32J. He has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Presently before me is respondent's motion (Docket # 18) to order petitioner to file a more definite statement of the grounds upon which his petition is based. See Fed. R. Civ. P. 12(e).

Petitioner alleges he is entitled to habeas relief on three grounds: (1) a prosecution witness falsely testified at trial regarding Massachusetts Registry of Motor Vehicles records; (2) a police detective relied upon "erroneous reports;" and (3) the

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[1]Kasenge pleaded guilty to the second or subsequent offense portion of the charge.

evidence was insufficient to support his conviction. See Jackson v. Virginia, 443 U.S. 307, 324 (1979). In his motion, respondent observes that Ground One and Ground Three correspond to Arguments V and II, respectively, in the brief petitioner's counsel filed in the Massachusetts Appeals Court pursuant to Commonwealth v. Moffett, 418 N.E.2d 585 (Mass. 1981), but asserts that Ground Two is too indefinite to allow him to draft an appropriate response. Assuming that respondent's understanding of the content of Grounds One and Three is correct, I agree that the petition's articulation of Ground Two is "so vague or ambiguous that [respondent] cannot reasonably prepare a response." Fed. R. Civ. P. 12(e).

Accordingly, respondent's motion (Docket # 18) is ALLOWED with respect to Ground Two and DENIED with respect to Grounds One and Three. Petitioner shall file a more definite statement of Ground Two on or before December 13, 2013.

_____November 21, 2013_____   _____/s/Rya W. Zobel_____
               DATE   RYA W. ZOBEL
                                                  UNITED STATES DISTRICT JUDGE