

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

ANTHONY JEROME HAIRSTON,

Petitioner,

No. 2: 10-cv-3056 JAM KJN P

vs.

K. HARRINGTON,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding without counsel with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On February 23, 2011, the undersigned recommended that petitioner’s motion to stay this action pending exhaustion of an additional claim be granted.

On March 7, 2011, petitioner filed a motion to “lift the stay” on grounds that all of his claims have now been exhausted. Good cause appearing, petitioner’s motion to stay and the February 23, 2011 findings and recommendations are vacated.

Because petitioner may be entitled to relief if the claimed violation of constitutional rights is proved, respondents will be directed to file a response to petitioner’s habeas petition.

////

1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. Petitioner's January 24, 2011 motion to stay (Dkt. No. 11) and the February 23,
3 2011 findings and recommendations (Dkt. No. 13) are vacated;

4 2. Petitioner's March 7, 2011 motion lift the stay (Dkt. No. 14) is granted;

5 3. Respondents are directed to file a response to petitioner's habeas petition
6 within sixty days from the date of this order. See Rule 4, Fed. R. Governing § 2254 Cases. An
7 answer shall be accompanied by all transcripts and other documents relevant to the issues
8 presented in the petition. See Rule 5, Fed. R. Governing § 2254 Cases;

9 4. If the response to the habeas petition is an answer, petitioner's reply, if any,
10 shall be filed and served within twenty-eight days after service of the answer;

11 5. If the response to the habeas petition is a motion, petitioner's opposition or
12 statement of non-opposition to the motion shall be filed and served within twenty-eight days after
13 service of the motion, and respondents' reply, if any, shall be filed and served within fourteen
14 days thereafter; and

15 6. The Clerk of the Court shall serve a copy of this order, the consent/
16 reassignment form contemplated by Appendix A(k) to the Local Rules of this court, and a copy
17 of the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on Michael Patrick Farrell,
18 Senior Assistant Attorney General.

19 DATED: March 16, 2011

20
21 
22 KENDALL J. NEWMAN
23 UNITED STATES MAGISTRATE JUDGE

24 ha3056.ord