

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
27
28

WO MD

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Richard Michael Lona, Petitioner, vs. Charles L. Ryan, et al., Respondents.	No. CV 14-01227-PHX-SPL (DKD) ORDER
---	---

Petitioner Richard Michael Lona, who is confined in the Arizona State Prison Complex-Phoenix, has filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) and has paid the \$5.00 filing fee. The Court will require an answer to the Petition.

I. Petition

Following a jury trial, Petitioner was convicted in Pinal County Superior Court, case #CR200801581, of aggravated assault, leaving the scene of an accident, and unlawful flight and was sentenced to a 9.75-year term of imprisonment. In his Petition, Petitioner names Charles L. Ryan as Respondent and the Arizona Attorney General as an Additional Respondent. Petitioner raises four grounds for relief.

In Ground One, Petitioner alleges that the trial court improperly restricted discovery and the cross-examination of a witness, in violation of Petitioner’s Fifth and Fourteenth Amendment rights.¹ In Ground Two, Petitioner alleges that his due process

¹ Petitioner actually wrote “U.S.C.A. 5 and 14,” but it appears he is referring to the Fifth

1 rights were violated, in violation of the Fifth and Fourteenth Amendments. In Ground
2 Three, Petitioner alleges that he received ineffective assistance of counsel, in violation of
3 his Fifth, Sixth and Fourteenth Amendment rights. In Ground Four, Petitioner alleges
4 that his urine sample was contaminated.

5 The Court will require Respondents to answer the Petition. 28 U.S.C. § 2254(a).

6 **II. Warnings**

7 **A. Address Changes**

8 Petitioner must file and serve a notice of a change of address in accordance with
9 Rule 83.3(d) of the Local Rules of Civil Procedure. Petitioner must not include a motion
10 for other relief with a notice of change of address. Failure to comply may result in
11 dismissal of this action.

12 **B. Copies**

13 Petitioner must serve Respondents, or counsel if an appearance has been entered, a
14 copy of every document that he files. Fed. R. Civ. P. 5(a). Each filing must include a
15 certificate stating that a copy of the filing was served. Fed. R. Civ. P. 5(d). Also,
16 Petitioner must submit an additional copy of every filing for use by the Court. LRCiv
17 5.4. Failure to comply may result in the filing being stricken without further notice to
18 Petitioner.

19 **C. Possible Dismissal**

20 If Petitioner fails to timely comply with every provision of this Order, including
21 these warnings, the Court may dismiss this action without further notice. *See Ferdik v.*
22 *Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action
23 for failure to comply with any order of the Court).

24 **IT IS ORDERED:**

25 (1) The Clerk of Court must serve a copy of the Petition (Doc. 1) and this
26 Order on the Respondent and the Attorney General of the State of Arizona by certified
27 mail pursuant to Rule 4, Rules Governing Section 2254 Cases.

28 _____
and Fourteenth Amendments to the United States Constitution.

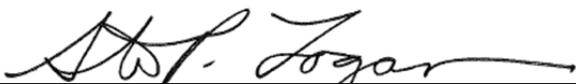
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(2) Respondents must answer the Petition within 40 days of the date of service. Respondents must not file a dispositive motion in place of an answer but may file an answer limited to relevant affirmative defenses, including but not limited to, statute of limitations, procedural bar, or non-retroactivity. If the answer is limited to affirmative defenses, only those portions of the record relevant to those defenses need be attached to the answer. Failure to set forth an affirmative defense in an answer may be treated as a waiver of the defense. *Day v. McDonough*, 547 U.S. 198, 209-11 (2006). If not limited to affirmative defenses, the answer must fully comply with all of the requirements of Rule 5 of the Rules Governing Section 2254 Cases.

(3) Petitioner may file a reply within 30 days from the date of service of the answer.

(4) This matter is referred to Magistrate Judge David K. Duncan pursuant to Rules 72.1 and 72.2 of the Local Rules of Civil Procedure for further proceedings and a report and recommendation.

Dated this 31st day of July, 2014.


Honorable Steven P. Logan
United States District Judge