-PLA Horace Bell v. K Allison

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2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 **CENTRAL DISTRICT OF CALIFORNIA** 10 **WESTERN DIVISION** 11 12 HORACE BELL. No. CV 11-7558-CJC (PLA) 13 Petitioner. ORDER DISMISSING PETITION WITHOUT 14 **PREJUDICE** ٧. 15 K. ALLISON, et al., 16 Respondents. 17 18 Petitioner initiated this action on September 12, 2011, by filing a Petition for Writ of Habeas 19 Corpus pursuant to 28 U.S.C. § 2254 (the "Petition") in the United States District Court for the 20 Eastern District of California. On September 13, 2011, the action was transferred to the Central 21 District of California pursuant to 28 U.S.C. § 1391(b), and was filed. The Petition challenges 22 petitioner's 1994 conviction for kidnapping and robbery in the Los Angeles County Superior Court. 23 In 1995, petitioner filed his first habeas petition in this Court, Case No. CV 95-2090-RSWL (RC), 24 in which petitioner challenged the same conviction. The 1995 Petition was dismissed on the

The case numbers for petitioner's previous habeas petitions are: CV 95-2090-RSWL (RC); (continued...)

merits. (See Judgment in Case No. CV 95-2090-RSWL (RC)). Subsequently, petitioner has filed

numerous additional habeas petitions in this Court, with the instant Petition being the ninth.¹

1 2 Court ordered petitioner to show cause why he should not be declared a vexatious litigant in light 3 of his filing of numerous habeas petitions in this Court. (See Docket Entry No. 7, Case No. CV 4 5 6 7 8 9 10 11 12 13 14

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10-3599-CJC (RC), at 4-6; Docket Entry No. 3, Case No. CV 10-3705-CJC (RC), at 4-6). As of June 7, 2010, petitioner had failed to file any objections to the May 20, 2010, Orders, and the Magistrate Judge "determined [petitioner] to be a vexatious litigant, within the meaning of Local Rule 83-8.1." (See Docket Entry No. 10, Case No. CV 10-3599-CJC (RC); Docket Entry No. 6, Case No. CV 10-3705-CJC (RC)). The Orders state that no further habeas corpus petitions from petitioner are to be filed with the Court "without the payment of the filing fee and without prior written authorization from a District Judge or Magistrate Judge issued upon such showing of evidence as required." (Id.) Local Rule 83-8.2 provides that orders to control the conduct of a vexatious litigant "may include, without limitation, a directive to the Clerk not to accept further filings from the litigant without payment of normal filing fees and/or without written authorization from a judge of the Court or a Magistrate Judge, issued upon such showing of the evidence supporting the claim as the judge may require." Local Rule 83-8.2. In seeking to file the instant Petition, petitioner has not paid the requisite filing fee, and has

On May 20, 2010, in Case Nos. CV 10-3599-CJC (RC) and CV 10-3705-CJC (RC), the

not obtained written authorization from a District Judge or Magistrate Judge of the Court to file the Petition. Moreover, petitioner does not appear through the instant Petition to seek such authorization, as petitioner merely completed the form Petition for Writ of Habeas Corpus by a Person in State Custody and attached the following documents: four Petitions for Writ of Habeas Corpus that petitioner filed with the California Supreme Court in 2010 (Petition, Exs. 1-4), as well as the California Supreme Court's four decisions denying the petitions (Petition, Ex. 1 at 1; Ex. 2 at 1; Ex. 3 at 1; Ex. 4 at 1); and three California Court of Appeal decisions -- the first and second denying Petitions for Writ of Habeas Corpus filed by petitioner, and the third denying petitioner's motion for reconsideration of an earlier decision by the California Court of Appeal. (Petition, Ex.

^{1(...}continued)

CV 97-0009-HLH (RC); CV 02-8355-PA (RC); CV 03-5306-CJC (RC); CV 04-3682-RT (RC); CV 10-2994-CJC (RC); CV 10-3599-CJC (RC); and CV 10-3705-CJC (RC)).

1	1 at 9; Ex. 4 at 8, 11). As petitioner has not satisfied the requirements set forth in the June 7,	
2	2010, Order, the instant Petition should not have been filed, and is subject to dismissal.	
3	IT IS THEREFORE ORDERED that this action be dismissed without prejudice.	
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5	DATED: September 21, 2011	(- /. (- /
6		HONORABLE CORMAC J. CARNEY
7		UNITED STATES DISTRICT JUDGE
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