

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 16-03274 PA (KS) Date: May 16, 2016Title Norice D. Patterson v. Randy Grounds, WardenPresent: The Honorable: Karen L. Stevenson, United States Magistrate JudgeRoxanne Horan-Walker

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Proceedings: ORDER TO SHOW CAUSE (INCOMPLETE HABEAS PETITION)

On May 12, 2016 Petitioner, a California state prisoner proceeding *pro se*, filed a Petition For Writ Of Habeas Corpus By A Person In State Custody (“Petition”) pursuant to 28 U.S.C. § 2254 and a request to proceed *In Forma Pauperis* (“IFP Request”). However, Petitioner’s filing consisted only of the cover page of the form habeas petition and two attachments: the California Supreme Court’s denial of his state habeas petition on April 13, 2016, and the underlying state habeas petition. As a result, the habeas petition as submitted is incomplete and defective in numerous regards including that it fails to indicate when and where Petitioner was convicted, the exact nature of his sentence, lacks evidence that he has exhausted his claim(s) in the state courts through direct and/or collateral review, lacks any statement of facts and circumstances evidencing illegal detention, and also lacks clearly stated grounds or claims for relief.

In light of these defects, **Petitioner is ORDERED TO SHOW CAUSE on or before May 31, 2016 why the Petition should not be dismissed** – that is, Petitioner must file, no later than May 31, 2016, a First Amended Petition For Writ Of Habeas Corpus, using the 10-page form habeas petition, and must include a statement of facts and circumstances evidencing illegal detention, and a statement of the grounds or claims for relief.

Petitioner’s failure to timely show cause for proceeding with this action will result in the Court recommending dismissal pursuant to Rule 4 of the Habeas Rules, Local Rule 41-1, and Rule 41 of the Federal Rules of Civil Procedure.

If Petitioner no longer wishes to pursue this action, he may voluntarily dismiss it by filing a signed document entitled “Notice Of Voluntary Dismissal” in accordance with Federal Rule of

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Title *Norice D. Patterson v. Randy Grounds, Warden*

Civil Procedure 41(a)(1). The Clerk is directed to include a copy of the form habeas petition with this Order.

IT IS SO ORDERED.

:

Initials of Preparer



NAME _____

PRISON IDENTIFICATION/BOOKING NO. _____

ADDRESS OR PLACE OF CONFINEMENT _____

Note: It is your responsibility to notify the Clerk of Court in writing of any change of address. If represented by an attorney, provide his name, address, telephone and facsimile numbers, and e-mail address.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CASE NUMBER:

CV _____
To be supplied by the Clerk of the United States District Court

FULL NAME (Include name under which you were convicted) Petitioner,

v.

NAME OF WARDEN, SUPERINTENDENT, JAILOR OR AUTHORIZED
PERSON HAVING CUSTODY OF PETITIONER Respondent.

_____ AMENDED

**PETITION FOR WRIT OF HABEAS CORPUS
BY A PERSON IN STATE CUSTODY
28 U.S.C. § 2254**

PLACE/COUNTY OF CONVICTION _____
PREVIOUSLY FILED, RELATED CASES IN THIS DISTRICT COURT
(List by case number)

CV _____
CV _____

INSTRUCTIONS - PLEASE READ CAREFULLY

1. To use this form, you must be a person who either is currently serving a sentence under a judgment against you in a California state court, or will be serving a sentence in the future under a judgment against you in a California state court. You are asking for relief from the conviction and/or the sentence. This form is your petition for relief.
2. In this petition, you may challenge the judgment entered by only one California state court. If you want to challenge the judgment entered by a different California state court, you must file a separate petition.
3. Make sure the form is typed or neatly handwritten. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. Answer all the questions. You do not need to cite case law, but you do need to state the federal legal theory and operative facts in support of each ground. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a legal brief or arguments, you may attach a separate memorandum.
5. You must include in this petition all the grounds for relief from the conviction and/or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
6. You must pay a fee of \$5.00. If the fee is paid, your petition will be filed. If you cannot afford the fee, you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out and sign the declaration of the last two pages of the form. Also, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account at the institution. If your prison account exceeds \$25.00, you must pay the filing fee.
7. When you have completed the form, send the original and two copies to the following address:
 Clerk of the United States District Court for the Central District of California
 United States Courthouse
 ATTN: Intake/Docket Section
 312 North Spring Street
 Los Angeles, California 90012

PLEASE COMPLETE THE FOLLOWING: (Check appropriate number)

This petition concerns:

1. a conviction and/or sentence.
2. prison discipline.
3. a parole problem.
4. other.

PETITION

1. Venue

- a. Place of detention _____
- b. Place of conviction and sentence _____

2. Conviction on which the petition is based (a separate petition must be filed for each conviction being attacked).

- a. Nature of offenses involved (include all counts) : _____

- b. Penal or other code section or sections: _____

- c. Case number: _____
- d. Date of conviction: _____
- e. Date of sentence: _____
- f. Length of sentence on each count: _____

- g. Plea (check one):
 Not guilty
 Guilty
 Nolo contendere
- h. Kind of trial (check one):
 Jury
 Judge only

3. Did you appeal to the California Court of Appeal from the judgment of conviction? Yes No

If so, give the following information for your appeal (and attach a copy of the Court of Appeal decision if available):

- a. Case number: _____
- b. Grounds raised (list each):
(1) _____
(2) _____

- (3) _____
- (4) _____
- (5) _____
- (6) _____

c. Date of decision: _____

d. Result _____

4. If you did appeal, did you also file a Petition for Review with the California Supreme Court of the Court of Appeal decision? Yes No

If so give the following information (and attach copies of the Petition for Review and the Supreme Court ruling if available) :

a. Case number: _____

b. Grounds raised (list each):

- (1) _____
- (2) _____
- (3) _____
- (4) _____
- (5) _____
- (6) _____

c. Date of decision: _____

d. Result _____

5. If you did not appeal:

a. State your reasons _____

b. Did you seek permission to file a late appeal? Yes No

6. Have you previously filed any habeas petitions in any state court with respect to this judgment of conviction?

Yes No

If so, give the following information for each such petition (use additional pages if necessary, and attach copies of the petitions and the rulings on the petitions if available):

a. (1) Name of court: _____

(2) Case number: _____

(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing): _____

(4) Grounds raised *(list each)*:

- (a) _____
- (b) _____
- (c) _____
- (d) _____
- (e) _____
- (f) _____

(5) Date of decision: _____

(6) Result _____

(7) Was an evidentiary hearing held? Yes No

b. (1) Name of court: _____

(2) Case number: _____

(3) Date filed *(or if mailed, the date the petition was turned over to the prison authorities for mailing)*: _____

(4) Grounds raised *(list each)*:

- (a) _____
- (b) _____
- (c) _____
- (d) _____
- (e) _____
- (f) _____

(5) Date of decision: _____

(6) Result _____

(7) Was an evidentiary hearing held? Yes No

c. (1) Name of court: _____

(2) Case number: _____

(3) Date filed *(or if mailed, the date the petition was turned over to the prison authorities for mailing)*: _____

(4) Grounds raised *(list each)*:

- (a) _____
- (b) _____
- (c) _____
- (d) _____
- (e) _____
- (f) _____

(5) Date of decision: _____

(6) Result _____

(7) Was an evidentiary hearing held? Yes No

7. Did you file a petition for certiorari in the United States Supreme Court? Yes No

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

8. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than five grounds. Summarize briefly the facts supporting each ground. For example, if you are claiming ineffective assistance of counsel, you must state facts specifically setting forth what your attorney did or failed to do.

CAUTION: *Exhaustion Requirement:* In order to proceed in federal court, you must ordinarily first exhaust your state court remedies with respect to each ground on which you are requesting relief from the federal court. This means that, prior to seeking relief from the federal court, you first must present all of your grounds to the California Supreme Court.

a. Ground one: _____

(1) Supporting FACTS: _____

(2) Did you raise this claim on direct appeal to the California Court of Appeal? Yes No

(3) Did you raise this claim in a Petition for Review to the California Supreme Court? Yes No

(4) Did you raise this claim in a habeas petition to the California Supreme Court? Yes No

b. Ground two: _____

(1) Supporting FACTS: _____

- (2) Did you raise this claim on direct appeal to the California Court of Appeal? Yes No
(3) Did you raise this claim in a Petition for Review to the California Supreme Court? Yes No
(4) Did you raise this claim in a habeas petition to the California Supreme Court? Yes No

c. Ground three: _____

(1) Supporting FACTS: _____

- (2) Did you raise this claim on direct appeal to the California Court of Appeal? Yes No
(3) Did you raise this claim in a Petition for Review to the California Supreme Court? Yes No
(4) Did you raise this claim in a habeas petition to the California Supreme Court? Yes No

d. Ground four: _____

(1) Supporting FACTS: _____

- (2) Did you raise this claim on direct appeal to the California Court of Appeal? Yes No
(3) Did you raise this claim in a Petition for Review to the California Supreme Court? Yes No
(4) Did you raise this claim in a habeas petition to the California Supreme Court? Yes No

e. Ground five: _____

(1) Supporting FACTS: _____

- (2) Did you raise this claim on direct appeal to the California Court of Appeal? Yes No

(3) Did you raise this claim in a Petition for Review to the California Supreme Court? Yes No

(4) Did you raise this claim in a habeas petition to the California Supreme Court? Yes No

9. If any of the grounds listed in paragraph 7 were not previously presented to the California Supreme Court, state briefly which grounds were not presented, and give your reasons: _____

10. Have you previously filed any habeas petitions in any federal court with respect to this judgment of conviction?

Yes No

If so, give the following information for each such petition *(use additional pages if necessary, and attach copies of the petitions and the rulings on the petitions if available)*:

a. (1) Name of court: _____

(2) Case number: _____

(3) Date filed *(or if mailed, the date the petition was turned over to the prison authorities for mailing)*: _____

(4) Grounds raised *(list each)*:

(a) _____

(b) _____

(c) _____

(d) _____

(e) _____

(f) _____

(5) Date of decision: _____

(6) Result _____

(7) Was an evidentiary hearing held? Yes No

b. (1) Name of court: _____

(2) Case number: _____

(3) Date filed *(or if mailed, the date the petition was turned over to the prison authorities for mailing)*: _____

(4) Grounds raised *(list each)*:

(a) _____

(b) _____

(c) _____

(d) _____

(e) _____

(f) _____

(5) Date of decision: _____

(6) Result _____

(7) Was an evidentiary hearing held? Yes No

11. Do you have any petitions now pending (i.e., filed but not yet decided) in any state or federal court with respect to this judgment of conviction? Yes No

If so, give the following information *(and attach a copy of the petition if available)*:

(1) Name of court: _____

(2) Case number: _____

(3) Date filed *(or if mailed, the date the petition was turned over to the prison authorities for mailing)*: _____

(4) Grounds raised *(list each)*:

(a) _____

(b) _____

(c) _____

(d) _____

(e) _____

(f) _____

12. Are you presently represented by counsel? Yes No

If so, provide name, address and telephone number: _____

WHEREFORE, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding,

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on _____
Date

Signature of Petitioner

Petitioner

Respondent(s)

**ELECTION REGARDING
CONSENT TO PROCEED BEFORE
A UNITED STATES MAGISTRATE JUDGE**

- A magistrate judge is available under 28 U.S.C. § 636 (c) to conduct all proceedings in this case, including dispositive matters, and entry of final judgment. However, a magistrate judge may be assigned to rule on dispositive matters only if all parties voluntarily consent.
- Parties are free to withhold consent to magistrate judge jurisdiction without adverse substantive consequences.
- If both parties consent to have a magistrate judge decide the case, any appeal would be made directly to the Ninth Circuit Court of Appeals, as if a district judge had decided the matter.
- Unless both parties consent to have a magistrate judge decide the case, the assigned magistrate judge will continue to decide only non-dispositive matters, and will issue a Report and Recommendation to the district judge as to all dispositive matters.

Please check the “yes” or “no” box regarding your decision to consent to a United States Magistrate Judge, and sign below.

Yes, I voluntarily consent to have a United States Magistrate Judge conduct all further proceedings in this case, decide all dispositive and non-dispositive matters, and order the entry of final judgment.

No, I do not consent to have a United States Magistrate Judge conduct all further proceedings in this case.

Executed on _____
Date

Signature of Petitioner/Counsel for Petitioner

Petitioner

Respondent(s)

**DECLARATION IN SUPPORT
OF REQUEST
TO PROCEED
IN FORMA PAUPERIS**

I, _____, declare that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to relief.

1. Are you presently employed? Yes No

a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer. _____

b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received. _____

2. Have you received, within the past twelve months, any money from any of the following sources?

a. Business, profession or form of self-employment? Yes No

b. Rent payments, interest or dividends? Yes No

c. Pensions, annuities or life insurance payments? Yes No

d. Gifts or inheritances? Yes No

e. Any other sources? Yes No

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past twelve months: _____

3. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts)
 Yes No

If the answer is yes, state the total value of the items owned: _____

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property? (*Excluding ordinary household furnishings and clothing*) Yes No

If the answer is yes, describe the property and state its approximate value: _____

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support: _____

I, declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Executed on _____
Date

Signature of Petitioner

CERTIFICATE

I hereby certify that the Petitioner herein has the sum of \$ _____ on account to his credit at the _____ institution where he is confined. I further certify that Petitioner likewise has the following securities to his credit according to the records of said institution: _____

Date

Authorized Officer of Institution/Title of Officer

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NUMBER

v.
Plaintiff(s),

Defendant(s).

**NOTICE OF DISMISSAL PURSUANT
TO FEDERAL RULES OF CIVIL
PROCEDURE 41(a) or (c)**

PLEASE TAKE NOTICE: (*Check one*)

- This action is dismissed by the Plaintiff(s) in its entirety.
- The Counterclaim brought by Claimant(s) _____ is dismissed by Claimant(s) in its entirety.
- The Cross-Claim brought by Claimants(s) _____ is dismissed by the Claimant(s) in its entirety.
- The Third-party Claim brought by Claimant(s) _____ is dismissed by the Claimant(s) in its entirety.
- ONLY** Defendant(s) _____

_____ is/are dismissed from (*check one*) Complaint, Counterclaim, Cross-claim, Third-Party Claim brought by _____.

The dismissal is made pursuant to F.R.Civ.P. 41(a) or (c).

Date

Signature of Attorney/Party

NOTE: F.R.Civ.P. 41(a): This notice may be filed at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs.

F.R.Civ.P. 41(c): Counterclaims, cross-claims & third-party claims may be dismissed before service of a responsive pleading or prior to the beginning of trial.