

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 17-00173-GW (JDE)	Date	May 5, 2017
Title	Daniel D. Hinton v. W.L. Muniz		

Present: The Honorable John D. Early

Ivette Gomez

n/a

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Petitioner:

Attorneys Present for Respondent:

n/a

n/a

Proceedings: (In Chambers) Order to Show Cause Re: Dismissal

On January 9, 2017, Petitioner David D. Hinton (“Petitioner”), proceeding pro se, filed a Petition for Writ of Habeas Corpus by a Person in State Custody (“Petition”). Dkt. 1. On March 2, 2017, Respondent moved to dismiss arguing, inter alia, that the Petition is unverified. Dkt. 9 (“Motion to Dismiss”). Per the Court’s January 11, 2017 Order Requiring Response to Petition for Writ of Habeas Corpus (Dkt.4), Petitioner’s opposition to the Motion to Dismiss was due within 30 days of the filing of the Motion to Dismiss, that is, by April 3, 2017. As of the date of this Order, Petitioner has not filed an opposition to the Motion to Dismiss, or filed a signed, amended habeas petition

Pursuant to 28 U.S.C. § 2242, an “[a]pplication for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.” In addition, Rule 2(c)(5) of the Rules Governing Section 2254 Cases in the United States District Courts requires that the petition be “signed under penalty of perjury by the petitioner or by a person authorized to sign it for the petitioner.” In the absence of such verification “[t]he district court may refuse to file, or may dismiss, an unsigned and unverified petition.” Hendricks v. Vasquez, 908 F.2d 490, 491 (9th Cir. 1990). Upon review of the Petition, the Court concurs with Respondent and finds that the instant Petition lacks the necessary verification. See Dkt. 1 at 8.

Therefore, Petitioner is ORDERED TO SHOW CAUSE show why the Petition should not be dismissed because it is unverified. If Petitioner seeks to pursue this action, by no later than June 5, 2017, he shall file a signed and verified First Amended Petition. The clerk is directed to provide Petitioner with a blank Petition for Writ of Habeas Corpus by a Person in State Custody form that Petitioner is encouraged to use when, and if, he files an amended petition.

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The Court warns Petitioner that failure to timely comply with this Order may result in the Court dismissing this action.

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