

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

|          |                                |      |                  |
|----------|--------------------------------|------|------------------|
| Case No. | CV 17-00583-R (AS)             | Date | January 31, 2017 |
| Title    | <u>Enoch Conners v. Warden</u> |      |                  |

|                        |  |  |                                   |
|------------------------|--|--|-----------------------------------|
| Present: The Honorable | Alka Sagar, United States Magistrate Judge |  |                                   |
|                        | Alma Felix                                 |  | N/A                               |
|                        | Deputy Clerk                               |  | Court Reporter / Recorder         |
|                        | Attorneys Present for Petitioner:          |  | Attorneys Present for Respondent: |
|                        | N/A  |  | N/A                               |

**Proceedings:** (IN CHAMBERS) ORDER REQUIRING THE FILING OF FIRST AMENDED PETITION

This Court is in receipt of Petitioner’s undated letter, filed on January 24, 2017. (Docket Entry No. 1). Petitioner, a California state prisoner, seeks to file a “Motion for Time Credit” in order to receive credit for all of the time of his incarceration.

Petitioner’s pleading is deficient in the following respects: (1) It is not clear whether Petitioner is attempting to file a Petition for Writ of Habeas Corpus by a Person in State Custody (pursuant to 28 U.S.C. § 2254), or some other pleading (i.e., a civil rights action pursuant to 42 U.S.C. § 1983); (2) Petitioner has failed to name the proper Respondent (the name of the officer having custody over him); (3) Petitioner has failed to plainly state “[t]he statutory or other basis for the exercise of jurisdiction by this Court,” in violation of Central District Local Rule 8-1 and Fed.R.Civ.P. Rule 8(a); (4) Assuming the pleading is a Petition for Writ of Habeas Corpus by a Person in State Custody, Petitioner has failed to specify any understandable ground for relief and does not include any supporting facts, in violation of Rule 2(c), Rules Governing Section 2254 Cases in the United States District Courts; and (5) Petitioner has alleged vague and conclusory “claims,” in violation of Fed.R.Civ.P. Rule 8(a) and 8(d).

To the extent that Petitioner has requested a “‘Fill in the blank’ Motion for Time Credit Application/Petition,” it is not clear what application/petition Petitioner is requesting.

Within twenty-one (21) days of the date of this Order (by no later than **February**

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Title Enoch Conners v. Warden

**21, 2017**), Petitioner is ORDERED to file a First Amended Petition for Writ of Habeas Corpus by a Person in State Custody, pursuant to 28 U.S.C. § 2254 (“First Amended Petition”), on the proper Central District Form (which the Clerk of the Court is directed to provide to Petitioner). The First Amended Petition shall be complete in itself, must not incorporate by reference any other pleading, and should set forth clearly each claim which Petitioner intends to raise in this proceeding and the factual bases for each claim.

Petitioner is advised that his failure to comply with the above requirements may result in a recommendation that this action be dismissed for failure to comply with the Court’s Order and/or for failure to prosecute pursuant to Fed.R.Civ.P. 41(b). See Pagtalunan v. Galaza, 291 F.3d 639 (9th Cir. 2002)(district court may dismiss habeas petition for failure to obey court order or failure to prosecute).

Initials of Preparer 0 : 00  
AF

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. the grounds for relief from the conviction and/or sentence that you challenge.
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*

NAME, ADDRESS & TELEPHONE NUMBER OF ATTORNEY(S) FOR PARTY, OR NAME,  
ADDRESS & INMATE ID # OF PETITIONER IF PETITIONER IS PRO PER

ATTORNEYS FOR:

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

CASE NUMBER

Petitioner,

v.

Respondent.

**CONSENT TO PROCEED BEFORE A UNITED STATES  
MAGISTRATE JUDGE  
(STATE /FEDERAL HABEAS CASE)**

**I NOTICE OF A MAGISTRATE JUDGE’S AVAILABILITY**

1. 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 can be assigned to rule on dispositive matters only if all parties voluntarily consent.
2. You are free to withhold consent to magistrate judge jurisdiction.
3. If both parties consent to have a magistrate judge decide the case, either party may appeal directly to the Ninth Circuit Court of Appeals, as if a district judge had decided the matter.
4. If both parties do not consent to have a magistrate judge decide the case, the assigned magistrate judge will continue to decide all non-dispositive matters, and will issue a Report and Recommendation to the district judge as to all dispositive matters.

**II CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

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.

Name of Counsel **OR** Party if Pro Per

Signature and date

Counsel for (Name Party)

\_\_\_\_\_  
\_\_\_\_\_

**III NOTICE TO COUNSEL FROM CLERK**

All parties having consented to proceed before the assigned magistrate judge, please specify the case number as \_\_\_\_\_ on all documents subsequently filed in this case.