

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 17-00638-PA (AS)	Date	March 7, 2017
Title	<u>Cephus, Vernell v. Donald, S. Kennedy</u>		

Present: The Honorable	Alka Sagar, United States Magistrate Judge
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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 TO SHOW CAUSE

On January 26, 2017, Vernell Cephus (“Petitioner”) filed a Petition for Writ of Habeas Corpus by a Person in State Custody pursuant to 28 U.S.C. § 2254 (“Petition”). (Docket Entry No. 1). The Petition asserts the following grounds for federal habeas relief: (1) “[T]he Municipal Court had no jurisdiction to act on defendant’s case for more than three years.”; and (2) “They have no right to hold me over 3 years.” (Petition at 5-6).

On February 1, 2017, the Court issued a Minute Order requiring Petitioner to select, by February 21, 2017, one of two options, because (as Petitioner had conceded) both grounds alleged in the Petition were unexhausted. (Docket Entry No. 4). Specifically, the Court ordered Petitioner to either: (1) voluntarily dismiss the entire action without prejudice; or (2) request a stay of the Petition, pursuant to Rhines v. Weber, 544 U.S. 269, 277-78 (2005), while he returns to state court to exhaust his unexhausted claims. Id. at 2-3. Petitioner was expressly warned that his failure to file a timely response to the Court’s February 1, 2017 Minute Order might result in a recommendation that this action be dismissed with prejudice for his failure to prosecute and/or obey Court orders pursuant to Fed.R.Civ.P. 41(b). Id. at 3. Petitioner further was expressly warned that his failure to select one of the two options identified in the Court’s February 1, 2017 Minute Order might result in the dismissal of the Petition as a fully unexhausted petition. Id.

As of today’s date, Petitioner has failed to file a Response to the Court’s February 1, 2017 Minute Order.

Accordingly, Petitioner is **HEREBY ORDERED TO SHOW CAUSE why this**

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action should not be dismissed as a fully unexhausted petition.

Petitioner may file a response to this Order by availing himself of one of the two options set forth in the Court's February 1, 2017 Minute Order: (1) voluntary dismissal of the entire action without prejudice; or (2) moving for a stay of this action pursuant to Rhines v. Weber, supra, while he returns to the state courts to exhaust the unexhausted claims, as identified above.

Information regarding the requirements for, and potential consequences of, each of these options are explained in the Court's February 1, 2017 Minute Order, a copy of which is attached.

Petitioner must file a response to this Order withing twenty (20) days of the date of this Order (by no later than **March 27, 2017**).

Petitioner is warned that failure to comply with this Order will result in a recommendation that this action be dismissed with prejudice for his failure to prosecute and/or comply with Court orders pursuant to Fed.R.Civ.P. 41(b) and/or dismissal without prejudice as a fully unexhausted petition.

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