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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FERNANDO REY GOMEZ,
Petitioner
v.
W.L. MONTGOMERY,
Respondent.

Case No. EDCV 15-2169-DSF (GJS)

ORDER TO SHOW CAUSE

On September 1, 2016, the Court granted Petitioner habeas relief in this 28 U.S.C. § 2254 action. By Order and Judgment entered on September 2, 2016 [Docket Nos. 12 and 13], the Court ordered as follows:

IT IS ADJUDGED THAT the Petition is conditionally granted, and that Judgment is entered in Petitioner's favor, as follows: Respondent shall release Petitioner within 90 days of the entry of Judgment unless the State of California issues an Amended Abstract of Judgment in San Bernardino County Superior Court Case No. FSB14849 reinstating the 518 days of conduct credits rescinded on April 24, 2014, and then recalculates Petitioner's release date and takes any appropriate and necessary action required as a result of that recalculated release date.

Respondent did not appeal and, thus, the Judgment herein is final.

1 The Court is in receipt of a “Post Judgment Brief” filed by Petitioner. [Docket
2 No. 14.] In the Brief, Petitioner asserts that neither Respondent nor the State of
3 California have complied with the Court’s Order and Judgment of September 1,
4 2016. There is no evidence before the Court that such compliance has occurred, and
5 there is reason to believe that it has not.¹

6 Accordingly, IT IS ORDERED that:

- 7 1. Within seven (7) days of this Order, Respondent shall file a Status Report,
8 advising whether the State of California and Respondent have complied with
9 the Court’s Order and Judgment. If compliance has occurred, Respondent
10 shall submit proof of such compliance, including any necessary declaration(s)
11 and documentary evidence and proof that the Amended Abstract of Judgment
12 issued in a timely manner and was provided to the appropriate persons at the
13 California Department of Corrections and Rehabilitation. Respondent also
14 shall explain why such compliance has not resulted in Petitioner’s release and
15 submit proof establishing Petitioner’s anticipated release date.
- 16 2. If the State of California and Respondent have not complied with the Court’s
17 Order and Judgment, Respondent is ORDERED TO SHOW CAUSE why
18 sanctions, including a possible contempt finding, should not issue due to such
19 noncompliance. In the Status Report, Respondent shall explain why the State
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23 ¹ In an effort to determine the status of this matter, Court staff initially
24 attempted to review the online dockets available for San Bernardino County
25 Superior Court (“SBSC”) cases, but no electronic docket for FSB14849 could be
26 found. Court staff contacted the SBSC Clerk’s Office, and were advised that the
27 case records for FSB14849 are stored on microfiche and that there has not been any
28 activity in the case since well before the Court’s September 1, 2016 Order and
Judgment issued. Subsequently, an employee of the SBSC faxed Court staff a copy
of an Amended Abstract of Judgment that bears a FILED stamp date of February 8,
2017. That Amended Abstract of Judgment does not comply with the Court’s
September 1, 2016 Order and Judgment, however, because it does not reinstate the
518 days of conduct credits rescinded on April 24, 2014.

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of California and Respondent have not complied with the Court’s September 1, 2016 Order and Judgment, and if appropriate, submit relevant evidence explaining such noncompliance. Respondent shall also set forth what steps will be taken to comply with the September 1, 2016 Order and Judgment. In addition, Respondent must include a calculation showing what Petitioner’s release date would have been/will be had the State of California and Respondent complied with the September 1, 2016 Order and Judgment.

3. No extension of time to respond will be granted. If Respondent is unable to comply with this Order within the time afforded, Respondent shall take the necessary steps to effectuate Petitioner’s release, as required by the September 1, 2016 Judgment, and submit proof of having done so by no later than thirty (30) days from the date of this Order.

3/2/16



DATE: _____

DALE S. FISCHER
UNITED STATES DISTRICT JUDGE