

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SALVADOR MENDOZA,)	1:09-cv-00732-BAK-SMS HC
)	
Petitioner,)	ORDER REQUIRING RESPONDENT TO FILE RESPONSE
)	
v.)	ORDER SETTING BRIEFING SCHEDULE
)	
KELLY HARRINGTON, Warden,)	ORDER DIRECTING CLERK OF COURT TO SERVE DOCUMENTS ON ATTORNEY GENERAL
)	
Respondent.)	

Petitioner is a prisoner proceeding through counsel with a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254.

The Court has conducted its preliminary screening of the petition. It is not clear from the face of the Petitioner whether Petitioner is entitled to relief. 28 U.S.C. § 2243. Accordingly, pursuant to Rule 4 of the Rules Governing Section 2254 Cases and Rule 16 of the Federal Rules of Civil Procedure,¹ the Court HEREBY ORDERS:

¹The Federal Rules of Civil Procedure “apply to proceedings for habeas corpus ... to the extent that the practice in those proceedings (A) is not specified in a federal statute, the Rules Governing Section 2254 Cases, or the Rules Governing Section 2255 Cases; and (B) has previously conformed to the practice in civil actions.” Fed.R.Civ.P. 81(a)(4). Rule 11 also provides “[t]he Federal Rules of Civil Procedure, to the extent that they are not inconsistent with any statutory provision or these rules, may be applied to a proceeding under these rules.” Rule 11, Rules Governing Section 2254 Cases.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Motion to Dismiss SHALL be filed within **EIGHT (8) days**, plus three days for mailing.

4. Unless already submitted, both Respondent and Petitioner SHALL COMPLETE and RETURN to the Court within **SIXTY (60) days** a Consent/Decline form indicating whether the party consents or declines to consent to the jurisdiction of the United States Magistrate Judge pursuant to Title 28 U.S.C. § 636(c)(1).
5. The Clerk of the Court is DIRECTED to SERVE a copy of this order on the Attorney General or his representative.

All motions shall be submitted on the record and briefs filed without oral argument unless otherwise ordered by the Court. Local Rule 78-230(h). All provisions of Local Rule 11-110 are applicable to this order.

IT IS SO ORDERED.

Dated: July 16, 2009

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE