U.S. District Court E. D. California

(HC) Fosselman v. Evans

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Committee Notes to Rule 5 of the Rules Governing Section 2254 Cases note that a traverse "tends to be a mere pro forma refutation of the return, serving little if any expository function [It] is not required except in those instances where it will serve a truly useful purpose." Petitioner does not state what useful purpose his traverse would have served. He states he has received a copy of the Findings and Recommendation. Therefore, he has been provided with the reasons for the Court's recommendation that the petition be denied. Moreover, on November 29, 2010, Petitioner filed his objections to the Findings and Recommendation. Whatever arguments Petitioner could have made in his traverse could have been and presumably have been made in the objections. Therefore, a traverse at this point is unnecessary. Nevertheless, Petitioner complains he has not received Respondent's answer. The Court will direct the Clerk to provide Petitioner with a copy.

Accordingly, IT IS HEREBY ORDERED that Petitioner's Request for Leave to File a Motion for Reconsideration is DENIED. The Clerk of Court is DIRECTED to serve Petitioner with a copy of Respondent's Answer.

IT IS SO ORDERED.

Dated: December 2, 2010

/s/ Gary S. Austin UNITED STATEŠ MAGISTRATE JUDGE