

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

| | | |
|-----------------------------|---|-----------------------------------|
| KENNETH H. CASNER, |) | 1:10-cv-01081-SKO-HC |
| |) | |
| Petitioner, |) | ORDER DEEMING COUNSEL'S PURPORTED |
| |) | SUBSTITUTION OF COUNSEL TO BE A |
| v. |) | MOTION TO SUBSTITUTE COUNSEL |
| |) | (DOC. 21) |
| KATHLEEN DICKINSON, Warden, |) | |
| |) | ORDER GRANTING MOTION TO |
| Respondent. |) | SUBSTITUTE ATTORNEYS OF RECORD |
| |) | (DOC. 21) |
| _____) | | INFORMATIONAL ORDER TO COUNSEL |

Petitioner is a state prisoner who has proceeded pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(c)(1), Petitioner has consented to the jurisdiction of the United States Magistrate Judge to conduct all further proceedings in the case, including the entry of final judgment, by manifesting consent in a signed writing filed by Petitioner on July 13, 2012 (doc. 22). Pending before the Court is Petitioner's counsel's purported substitution of counsel filed on July 13, 2012 (doc. 21).

On June 7, 2012, attorneys Robert J. Beles, Paul McCarthy, and David Reagan filed what was entitled as an "APPEARANCE OF COUNSEL," but which was actually a proposed substitution of

1 counsel which was not signed by Petitioner and did not include a
2 place for the Court to approve the substitution of counsel as
3 required by the pertinent rule of court. The Court issued an
4 order striking the proposed a proposed substitution of counsel
5 and informing counsel of Local Rule 182.

6 On July 13, 2012, counsel again filed what purported to be a
7 substitution of counsel which contained the required signatures
8 but did not include a place for the Court to approve the
9 substitution of counsel as required by the pertinent rule of
10 court.

11 Although the latest filing is subject to being stricken
12 because of noncompliance with Local Rule 182, the Court has
13 already expended its time and resources to correct counsel's
14 omissions without success; it appears that another attempt to
15 procure a formally sufficient substitution from these attorneys
16 would be futile. Because Petitioner's signature indicates that
17 Petitioner intends to substitute these attorneys as his counsel,
18 the Court will deem counsel's purported substitution to be a
19 motion for substitution of counsel, as Rule 182 requires. The
20 Court will grant the motion.

21 Accordingly, it is ORDERED that:

22 1) Counsel's purported substitution of counsel filed on
23 July 13, 2012 is DEEMED to be a motion to substitute counsel
24 pursuant to Local Rule 182(g); and

25 2) Counsel's motion to substitute as counsel for Petitioner,
26 who previously proceeded pro se, is GRANTED, and it is ORDERED
27 that pursuant to Local Rule 182(a) and (g), Robert J. Beles, Paul
28 McCarthy, and David Reagan are SUBSTITUTED as attorneys of record

1 for Petitioner Kenneth H. Casner.

2 Counsel are INFORMED that Local Rule 110 provides that a
3 failure of counsel or of a party to comply with the Local Rules
4 or with any order of the Court may be grounds of imposition by
5 the Court of any and all sanctions authorized by statute, rule,
6 or within the inherent power of the Court.

7

8

9

10

IT IS SO ORDERED.

11

Dated: August 1, 2012

12

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28