

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RANDY JAMES GEREN,

Petitioner,

vs.

MATTHEW CATE,¹ Secretary, California
Department of Corrections and
Rehabilitation,

Respondent.

No. 2:05-cv-01344-JKS-GGH

ORDER

[Re: Supplemental Briefing]

Petitioner Randy James Geren, a state prisoner appearing through counsel, has pending before this Court a Petition for Habeas Corpus Relief under 28 U.S.C. § 2254. In his Petition, Geren contends that he was denied the effective assistance of counsel. This Court previously ordered the matter stayed and held in abeyance pending Geren's exhaustion of his state-court remedies.² The record reflects that Geren filed a petition for habeas relief in the state courts raising his unexhausted claims. The Butte County Superior Court, after holding an evidentiary hearing, denied Geren's petition for habeas relief. The California Supreme Court summarily denied Geren's subsequent petition to that court, Case No. S188595, on July 13, 2011.³ The proceedings in the state courts are now concluded.

¹ Matthew Cate, Secretary, California Department of Corrections and Rehabilitation, is substituted for Tom. L. Carey, Warden. Fed. R. Civ. P. 25(d).

² Docket No. 42.

³

http://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc_id=1963376&doc_no=S188595

While this matter has been pending, in addition to the decision of the Butte County Superior Court, the United States Supreme Court handed down two decisions having an impact on the outcome in this case: *Knowles v. Mirzayance*⁴ and *Harrington v. Richter*.⁵ Accordingly, this Court has determined that Supplemental Briefing in this case addressing the decision of the Butte County Superior Court in light of *Mirzayance* and *Richter* is appropriate.

IT IS THEREFORE ORDERED THAT, except that any application for the payment of fees incurred by counsel for Geren, which shall remain referred to the magistrate Judge, the reference of this matter to the Magistrate Judge herein is hereby **WITHDRAWN**.

IT IS FURTHER ORDERED THAT the stay entered herein at Docket No. 42 is hereby **VACATED**.

IT IS FURTHER ORDERED THAT:

1. Within **21 days** of service of this Order, Petitioner must serve and file a supplemental brief, not to exceed 25 pages in length, addressing the matters as set forth above;
2. Respondent's Brief, not to exceed 25 pages in length, must be filed not later than **21 days** after service of Petitioner's Brief; and
3. Petitioner may file a reply brief, not exceeding 15 pages in length, not later than **14 days** after service of Respondent's Brief.

The Clerk of the Court is directed to reopen this case.

Dated: August 10, 2011.

/s/ James K. Singleton, Jr.
JAMES K. SINGLETON, JR.
United States District Judge

⁴ 556 U.S. ___, 129 S. Ct. 1411 (2009).

⁵ 562 U.S. ___, 131 S. Ct. 770 (2011).