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

ANTHONY M. BLACKWELL,

Petitioner,

No. CIV S-06-1876 RRB GGH P

vs.

RODERICK Q. HICKMAN,

Respondent.

ORDER

ANTHONY M. BLACKWELL,

Petitioner,

No. CIV S-10-2316 GEB GGH P

vs.

JAMES WALKER,

Respondent.

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On September 7, 2010, the undersigned issued a related case order between CIV S-10-2316 GEB GGH and CIV 06-1876 RRB GGH, as court records indicated that that case was stayed pursuant to Rhines v. Weber, 544 U.S. 269, 125 S.Ct. 1528 (2005), CIV 06-1876 RRB GGH. The undersigned noted that it appeared the two cases concerned the same underlying conviction, however, it was not certain, as the different petitions

1 disclosed different conviction dates, but it could have just been an error.¹ The court ordered
2 respondent to answer the petition in CIV S-10-2316 GEB GGH.

3 Respondent has filed a motion to consolidate the two cases and has requested that
4 petitioner indicate which petition he would like to proceed with as there are three different
5 petitions between the two cases. CIV 06-1876 RRB GGH, Docs. 1, 13; CIV S-10-2316 GEB
6 GGH, Doc. 1. Respondent has also included a detailed procedural history of the federal cases
7 and various state appeals and state writs of habeas corpus.

8 The motion to consolidate will be granted and all future filings shall appear in
9 CIV 06-1876 RRB GGH, as that will be the lead case. The stay in CIV 06-1876 RRB GGH
10 ordered on September 27, 2007, is lifted.

11 The court assumes that petitioner wishes to proceed with the petition filed on
12 August 27, 2010 in CIV S-10-2316 GEB GGH. If petitioner does not wish to proceed with that
13 petition he must alert the court within 14 days of service of this order. At that time the court will
14 issue a further order and instruct respondent to answer the petition.

15 In accordance with the above, IT IS HEREBY ORDERED that:

16 1. The motion to consolidate (Doc. 18 in CIV S-10-2316 GEB GGH) is granted
17 and future filings shall appear in CIV 06-1876 RRB GGH.

18 2. The stay in CIV 06-1876 RRB GGH ordered on September 27, 2007, is lifted.

19 3. The court assumes that petitioner wishes to proceed with the petition filed on
20 August 27, 2010 in CIV S-10-2316 GEB GGH. If petitioner does not wish to proceed with that
21 petition he must alert the court within 14 days of service of this order.

22 4. Petitioner's motion to proceed in forma pauperis (Doc. 12 in CIV S-10-2316
23 GEB GGH) is granted;

24 5. Petitioner's motion for an evidentiary hearing (Doc. 2 in CIV S-10-2316 GEB
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26 ¹ It is now clear both cases concern the same underlying conviction.

1 GGH) is vacated without prejudice for renewal at a future date.

2 DATED: January 20, 2011

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/s/ Gregory G. Hollows

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GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

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GGH:AB

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