

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

DONALD NORWOOD,

Petitioner, No. 2:09-cv-1888-JFM (HC)

VS.

KEN CLARK,

**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, together with a request to proceed in forma pauperis and a motion to hold this action in abeyance.<sup>1</sup>

Examination of the in forma pauperis affidavit reveals that petitioner is unable to afford the costs of suit. Accordingly, the request for leave to proceed in forma pauperis is granted. See 28 U.S.C. § 1915(a).

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<sup>1</sup> By order filed July 30, 2009, petitioner was directed to, within thirty days, either file an application to proceed in forma pauperis or to pay the filing fee for this action. On August 17, 2009, petitioner filed a motion for an extension of time to file an in forma pauperis application. On August 27, 2009, petitioner filed a motion to proceed in forma pauperis. Good cause appearing, petitioner's motion for extension of time will be granted nunc pro tunc and petitioner's August 27, 2009 motion to proceed in forma pauperis will be deemed timely filed.

1 Since petitioner may be entitled to the requested relief if the claimed violation of  
2 constitutional rights is proved, respondent will be directed to file an answer. Respondent will  
3 also be directed to file a response to petitioner's motion to hold this action in abeyance.

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

5 1. Petitioner's August 17, 2009 motion for extension of time is granted nunc pro  
6 tunc;

7 2. Petitioner's August 27, 2009 motion to proceed in forma pauperis is deemed  
8 timely filed and is granted;

9 3. Within twenty-one days from the date of this order, respondent shall file and  
10 serve a response to petitioner's July 10, 2009 motion to hold this action in abeyance;

11 4. Petitioner's reply, if any, in support of his July 10, 2009 motion to hold this  
12 action in abeyance shall be filed and served not later than ten days after respondent's response is  
13 filed;

14 5. Absent a stipulation to hold these proceedings in abeyance, respondent shall  
15 file an answer to the petition within forty-five days from the date of this order. See Rule 4, Rules  
16 Governing Section 2254 Cases. Respondent shall include with the answer any and all transcripts  
17 or other documents relevant to the determination of the issues presented in the application. Rule  
18 5, Rules Governing Section 2254 Cases;

19 6. Petitioner's traverse, if any, is due on or before thirty days from the date  
20 respondent's answer is filed;

21 7. The Clerk of the Court shall serve a copy of this order together with a copy of  
22 petitioner's application for writ of habeas corpus, petitioner's July 10, 2009 motion to hold this

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1 action in abeyance, and an Order Re Consent or Request for Reassignment on Michael Patrick  
2 Farrell, Senior Assistant Attorney General.

3 DATED: September 8, 2009.

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6 UNITED STATES MAGISTRATE JUDGE  
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