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

ROBERT LAUCELLA,

Petitioner,

No. CIV S-09-2123 FCD EFB P

vs.

JOHN W. HAVILAND,

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding without counsel, seeks a writ of habeas corpus. See 28 U.S.C. § 2254. Petitioner seeks leave to proceed *in forma pauperis*. See 28 U.S.C. § 1915(a).

Examination of the *in forma pauperis* affidavit reveals that petitioner is unable to afford the costs of suit.

A judge “entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243. It is not apparent from the face of the application that the petitioner is not entitled to relief.

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1 Accordingly, it is hereby ordered that:

2 1. Petitioner's request for leave to proceed *in forma pauperis* is granted.

3 2. Respondent shall file and serve either an answer or a motion in response to  
4 petitioner's application within 60 days from the date of this order. *See* Rule 4, Fed. R.  
5 Governing § 2254 Cases. Any response shall be accompanied by any and all transcripts or other  
6 documents relevant to the determination of the issues presented in the application. *See* Rules 4,  
7 5, Fed. R. Governing § 2254 Cases.

8 3. Petitioner's reply, if any, shall be filed and served within 30 days of service of an  
9 answer.

10 4. If the response to petitioner's application is a motion, petitioner's opposition or  
11 statement of non-opposition shall be filed and served within 30 days of service of the motion,  
12 and respondents' reply, if any, shall be filed within 15 days thereafter.

13 5. The Clerk of the Court shall serve a copy of this order together with a copy of  
14 petitioner's July 31, 2009, petition for a writ of habeas corpus with any and all attachments on  
15 Michael Patrick Farrell, Senior Assistant Attorney General for the State of California. The Clerk  
16 of the Court also shall serve on the Senior Assistant Attorney General the consent form used in  
17 this court.

18 Dated: December 1, 2009.

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20 EDMUND F. BRENNAN  
21 UNITED STATES MAGISTRATE JUDGE  
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