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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ADRIAN FRANK ANDRADE,
Petitioner,
v.
MATTHEW CATE,
Respondents.

No. 2:09-cv-02270 KJM AC P

ORDER

Petitioner is a state prisoner proceeding with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 12, 2014, this court issued an order to show cause to petitioner’s counsel of record, Donald Masuda and Kenny Giffard, as to whether they intended to continue to represent petitioner despite the conflict of interest apparent from the court’s order of September 24, 2013. ECF Nos. 24, 35. Counsel responded to the show cause on June 13, 2014 indicating that they intended to file a motion to withdraw, but they neglected to file any such motion. See ECF No. 36. As a result, the court ordered petitioner’s counsel to file a motion to withdraw no later than June 27, 2014. ECF No. 38. Petitioner’s counsel has now complied with the court’s orders and has filed a motion to withdraw. ECF No. 39.

I. Discussion

The Local Rules (“L.R.”) for the U.S. District Court for the Eastern District of California provide specific requirements for the withdrawal of counsel where, as here, the attorney will

1 leave the client in propria persona. L.R.182(d). Local Rule 182(d) provides in pertinent part:

2 Unless otherwise provided herein, an attorney who has appeared
3 may not withdraw leaving the client in propria persona without
4 leave of court upon noticed motion and notice to the client and all
5 other parties who have appeared. The attorney shall provide an
affidavit stating the current or last known address or addresses of
the client and the efforts made to notify the client of the motion to
withdraw.


6 Id.

7 Counsels' motion to withdraw complies, in part, with the Local Rules. While counsel did
8 provide the current or last known address of their client, they failed to indicate what efforts they
9 took to notify the client of the motion to withdraw. ECF No. 39. Instead, counsel seem to rely on
10 petitioner's own pro se pleadings filed in this court in which he requests to proceed pro se. ECF
11 No. 33. In light of the tortured history of this case and in light of the fact that petitioner has
12 received a service copy of all court orders and pleadings filed since June 12, 2014, and has
13 indicated that he wishes to proceed pro se, the court will deem counsel's motion in substantial
14 compliance with Local Rule 182 and will grant the motion.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. Petitioner's counsels' motion to withdraw as attorney of record (ECF No. 39) is
17 granted;
- 18 2. This court's order to show cause issued June 12, 2014 (ECF No. 35) is hereby
19 discharged;
- 20 3. The Clerk of Court shall update the docket to reflect petitioner's pro se status; and,
- 21 4. Within forty-five days from the date of this order, petitioner shall file a supplemental
22 traverse with respect to ground five of the petition challenging the sufficiency of the evidence
23 supporting petitioner's conviction.

24 DATED: June 27, 2014

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26 ALLISON CLAIRE
27 UNITED STATES MAGISTRATE JUDGE
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