

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

HARRISON SCOTT,

Petitioner,

No. CIV S-10-1107 GGH P

vs.

PEOPLE OF THE STATE OF CALIFORNIA,<sup>1</sup>

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma pauperis.

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

Since petitioner may be entitled to relief if the claimed violation of constitutional rights is proved, respondents will be directed to file a response to petitioner’s habeas petition.

\_\_\_\_\_

<sup>1</sup> "A petitioner for habeas corpus relief must name the state officer having custody of him or her as the respondent to the petition." Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994) (citing Rule 2(a), 28 U.S.C. foll. § 2254). In the instant action, petitioner has named the People of the State of California as respondents. Petitioner will be ordered to substitute the proper custodian.

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

2 1. Petitioner's application to proceed in forma pauperis is granted;

3 2. Respondents are directed to file a response to petitioner's habeas petition  
4 within sixty days from the date of this order. See Rule 4, Fed. R. Governing § 2254 Cases. An  
5 answer shall be accompanied by all transcripts and other documents relevant to the issues  
6 presented in the petition. See Rule 5, Fed. R. Governing § 2254 Cases;

7 3. If the response to the habeas petition is an answer, petitioner's reply, if any,  
8 shall be filed and served within twenty-eight days after service of the answer;

9 4. If the response to the habeas petition is a motion, petitioner's opposition or  
10 statement of non-opposition to the motion shall be filed and served within twenty-eight days after  
11 service of the motion, and respondents' reply, if any, shall be filed and served within fourteen  
12 days thereafter;

13 5. The Clerk of the Court shall serve a copy of this order, *the*  
14 *consent/reassignment form contemplated by Appendix A(k) to the Local Rules of this court*  
15 together with a copy of the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on  
16 Michael Patrick Farrell, Senior Assistant Attorney General.

17 6. Petitioner shall file a document substituting his present warden as the  
18 respondent in this case.

19 DATED: June 14, 2010

20  
21 /s/ Gregory G. Hollows

22 \_\_\_\_\_  
23 GREGORY G. HOLLOWS  
24 UNITED STATES MAGISTRATE JUDGE

23 GGH:AB  
24 scot1107.100.ggh