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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH LEE WARD,  
Petitioner,  
v.  
J. PRICE,  
Respondent.

No. 2:16-cv-1406 JAM KJN P

ORDER

Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On September 8, 2016, the undersigned recommended that this action be dismissed based on petitioner’s failure to pay the filing fee. On September 16, 2016, petitioner paid the filing fee, and on September 26, 2016, petitioner filed objections. Good cause appearing, the findings and recommendations are vacated.

Here, petitioner challenges the denial of parole on due process grounds. Petitioner argues, *inter alia*, that he and his attorney were not provided prior notice that confidential information would be used against him at the parole hearing. See Swarthout v. Cooke, 562 U.S. 216, 220 (2011) (“Cooke and Clay received at least this amount of process: They were allowed to speak at their parole hearings and to contest the evidence against them, *were afforded access to their records in advance*, and were notified as to the reasons why parole was denied.”) (emphasis added). Further, petitioner contends that there was no showing that the confidential information

1 was reliable; petitioner appears to contend that the confidential information could have been  
2 provided to his staff assistant or his lawyer for review prior to the parole hearing. (ECF No. 1 at  
3 20.)

4 Because petitioner may be entitled to relief if the claimed violation of constitutional rights  
5 is proved, respondent will be directed to file a response to petitioner's habeas petition.

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

7 1. The September 8, 2016 findings and recommendations (ECF No. 6) are vacated;

8 2. Respondent is directed to file a response to petitioner's habeas petition within sixty  
9 days from the date of this order. See Rule 4, 28 U.S.C. foll. § 2254. An answer shall be  
10 accompanied by all transcripts and other documents relevant to the issues presented in the  
11 petition. See Rule 5, 28 U.S.C. foll. § 2254;

12 3. If the response to the habeas petition is an answer, petitioner's reply, if any, shall be  
13 filed and served within thirty days after service of the answer;

14 4. If the response to the habeas petition is a motion, petitioner's opposition or statement  
15 of non-opposition to the motion shall be filed and served within thirty days after service of the  
16 motion, and respondent's reply, if any, shall be filed and served within fourteen days thereafter;  
17 and

18 5. The Clerk of the Court shall serve a copy of this order, the form Consent to Proceed  
19 Before a United States Magistrate Judge, and a copy of the petition for writ of habeas corpus  
20 pursuant to 28 U.S.C. § 2254 on Michael Patrick Farrell, Senior Assistant Attorney General.

21 Dated: October 11, 2016

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24 KENDALL J. NEWMAN  
25 UNITED STATES MAGISTRATE JUDGE

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