

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  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SAMUEL E. WEBB,

No. C 09-0054 MHP (pr)

Petitioner,

**ORDER TO SHOW CAUSE**

v.

B. CURRY, warden,

Respondent.

---

**INTRODUCTION**

Samuel E. Webb, an inmate at the Correctional Training Facility in Soledad, filed this pro se action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. His petition is now before the court for review pursuant to 28 U.S.C. §2243 and Rule 4 of the Rules Governing Section 2254 Cases.

**BACKGROUND**

Webb states in his petition that he is serving a sentence of 15 years to life in prison on a second degree murder conviction from Los Angeles County Superior Court. His petition does not challenge his conviction but instead challenges a June 15, 2006 decision by the Board of Parole Hearings ("BPH") to find him not suitable for parole. Webb apparently filed unsuccessful habeas petition in the California courts, including the California Supreme Court, before filing this action.

/ / /



1 however. Respondent should not to seek a stay of this action pending a decision in Hayward.  
2 See Yong v. INS, 208 F.3d 1116, 1120-22 (9th Cir. 2000) (it is an abuse of discretion for a  
3 district court to stay a habeas petition indefinitely pending resolution of a different case  
4 involving parallel issues on the basis of judicial economy). As an alternative to a stay, the  
5 court will be receptive to a reasonable request for an extension of time if a decision in  
6 Hayward is not issued by 30 days before the date respondent's brief is due.

7 **CONCLUSION**

8 For the foregoing reasons,

- 9 1. The petition's federal due process claim warrants a response.
- 10 2. The clerk shall serve by certified mail a copy of this order, the petition and all  
11 attachments thereto upon respondent and respondent's attorney, the Attorney General of the  
12 State of California. The clerk shall also serve a copy of this order on petitioner.
- 13 3. Respondent must file and serve upon petitioner, on or before **September 4,**  
14 **2009**, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254  
15 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent must  
16 file with the answer a copy of all portions of the parole hearing record that have been  
17 previously transcribed and that are relevant to a determination of the issues presented by the  
18 petition.
- 19 4. If petitioner wishes to respond to the answer, he must do so by filing a traverse  
20 with the court and serving it on respondent on or before **October 9, 2009**. Petitioner's  
21 traverse may not exceed 25 pages in length.
- 22 5. Petitioner is responsible for prosecuting this case. He must keep the court  
23 informed of any change of address and must comply with the court's orders in a timely  
24 fashion. Failure to do so may result in the dismissal of this action for failure to prosecute  
25 pursuant to Federal Rule of Civil Procedure 41(b).
- 26 6. Petitioner's in forma pauperis application is DENIED as unnecessary because  
27 he paid the filing fee. (Docket # 2.)

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  
27  
28

7. Petitioner's motion to file a supplemental petition is DENIED. (Docket # 5.)  
IT IS SO ORDERED.

DATED: May 27, 2009

  
\_\_\_\_\_  
Marilyn Hall Patel  
United States District Judge