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

ROSEMARY GREENLAW,
Petitioner,
vs.
SHEILA MITCHELL, et al.,
Respondents.

) No. C 12-1598 JSW (PR)
)
) **ORDER DISMISSING**
) **UNEXHAUSTED CLAIMS; TO SHOW**
) **CAUSE**
)
) **(Docket No. 10)**
)
)
)

Petitioner, a prisoner of the State of California, has filed a habeas corpus petition pursuant to 28 U.S.C. § 2254. The petition set forth nine claims challenging the validity of her criminal conviction and sentence in state court. The Court reviewed the petition and found three claims and part of a fourth claim cognizable. Respondent’s motion to dismiss the petition on the grounds that petitioner had exhausted only one claim (Claim 5) was granted. Petitioner was directed to elect one of three possible courses of action: (1) dismiss this petition with an eye to exhausting and then filing another federal petition; (2) amend the petition to dismiss the unexhausted issues, and proceed only with her exhausted claim; or (3) ask for a stay of this case while she exhausts the unexhausted issues in state court. She has filed a notice of election in which she argues that exhaustion should be excused and, if it is not, to proceed with the second option. She has not presented grounds for excusing exhaustion. Accordingly, the unexhausted


1 claims – claims four, nine and two – are DISMISSED. Respondent will be ordered to
2 show cause why the petition should not be granted based upon Petitioner’s fifth claim.

3 Respondent shall file with the Court and serve on Petitioner, within **ninety-one**
4 **(91)** days of the date this order is filed, an answer conforming in all respects to Rule 5 of
5 the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus
6 should not be granted based upon the fifth claim in the petition. Respondent shall file
7 with the answer and serve on Petitioner a copy of all portions of the state trial record that
8 have been transcribed previously and that are relevant to a determination of the issues
9 presented by the fifth claim in the petition. If Petitioner wishes to respond to the answer,
10 he shall do so by filing a traverse with the Court and serving it on Respondent within
11 **twenty-eight (28)** days of the date the answer is filed.

12 This order terminates docket number 10.

13 IT IS SO ORDERED.

14
15 DATED: May 2, 2013

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17 JEFFREY S. WHITE
18 United States District Judge
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1
2 UNITED STATES DISTRICT COURT
3 FOR THE
4 NORTHERN DISTRICT OF CALIFORNIA
5

6 ROSEMARY BELLE GREENLAW,
7

8 Plaintiff,

9 v.

10 SHEILA MITCHELL, ET AL. et al,
11

12 Defendant.
13 _____/

Case Number: CV12-01598 JSW


CERTIFICATE OF SERVICE

14 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
15 Court, Northern District of California.

16 That on May 2, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said
17 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
18 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
19 receptacle located in the Clerk's office.

20 Rosemary Belle Greenlaw
21 110 Hobson Street
22 San Jose, CA 95110-2224

23 Dated: May 2, 2013

24 
25 Richard W. Wieking, Clerk
26 By: Jennifer Ottolini, Deputy Clerk
27
28