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United States District Court
For the Northern District of California

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

ROWMOND BROWN,
Petitioner,

v.

R. GROUNDS, Warden,
Respondent.

No. C 12-1714 WHA (PR)

**ORDER TO SHOW CAUSE;
LIFTING STAY AND
ADMINISTRATIVELY REOPENING
CASE**

(Docket No. 16)

Petitioner, a prisoner of the State of California, filed a habeas corpus petition pursuant to 28 U.S.C. 2254. The petition set forth seven claims. He was granted leave to amend his sixth claim to assert a violation of federal law, specifically the federal constitutional right to due process. The case was also stayed to allow petitioner to exhaust the new grounds for his claim. Petitioner has filed an amendment to the petition (dkt. 16) in which he indicates that the California Supreme Court rejected his habeas petition setting forth the new grounds for the claim. He also lists his seven claims, including the newly exhausted sixth claim as amended.

In light of the foregoing,

1. Respondent shall file with the court and serve on petitioner, within **91 days** the date this order is filed, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be granted based on

1 the seven claims in the petition as amended by docket number 16. Respondent shall file with
2 the answer and serve on petitioner a copy of all portions of the state trial record that have been
3 transcribed previously and that are relevant to a determination of the issues presented by the
4 petition.

5 If petitioner wishes to respond to the answer, he shall do so by filing a traverse with the
6 court and serving it on respondent within **28 days** of the date the answer is filed.


7 2. Respondent may file, within **91 days**, a motion to dismiss on procedural grounds in
8 lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules
9 Governing Section 2254 Cases. If respondent files such a motion, petitioner shall file with the
10 court and serve on respondent an opposition or statement of non-opposition within **28 days** of
11 the date the motion is filed, and respondent shall file with the court and serve on petitioner a
12 reply within **14 days** of the date any opposition is filed.

13 3. Petitioner is reminded that all communications with the court must be served on
14 respondent by mailing a true copy of the document to respondent's counsel. Petitioner must
15 keep the court informed of any change of address and must comply with the court's orders in a
16 timely fashion. Failure to do so may result in the dismissal of this action for failure to prosecute
17 pursuant to Federal Rule of Civil Procedure 41(b). *See Martinez v. Johnson*, 104 F.3d 769, 772
18 (5th Cir. 1997) (Rule 41(b) applicable in habeas cases).

19 The stay is lifted. The clerk shall administratively reopen the file.

20 **IT IS SO ORDERED.**

21 Dated: March 8, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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