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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RONALD KNUTSON,
Plaintiff,
v.
MARTIN BITER,
Defendant.

Case No. [14-cv-01472-JD](#)

**ORDER GRANTING LEAVE TO
PROCEED IN FORMA PAUPERIS AND
DISMISSING PETITION WITH LEAVE
TO AMEND**

Re: Dkt. Nos. 5, 6, 7

Petitioner, a California prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He also applied for leave to proceed in forma pauperis. Petitioner was convicted in Santa Clara County, which is in this district, so venue is proper here. See 28 U.S.C. § 2241(d).

DISCUSSION

I. STANDARD OF REVIEW

This Court may entertain a petition for writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a); *Rose v. Hodges*, 423 U.S. 19, 21 (1975). Habeas corpus petitions must meet heightened pleading requirements. *McFarland v. Scott*, 512 U.S. 849, 856 (1994). An application for a federal writ of habeas corpus filed by a prisoner who is in state custody pursuant to a judgment of a state court must “specify all the grounds for relief available to the petitioner ... [and] state the facts supporting each ground.” Rule 2(c) of the Rules Governing § 2254 Cases, 28 U.S.C. § 2254. “[N]otice’ pleading is not sufficient, for the petition is expected to state facts that point to a ‘real possibility

1 of constitutional error.”” Rule 4 Advisory Committee Notes (quoting *Aubut v. Maine*, 431 F.2d
2 688, 689 (1st Cir. 1970)).

3 **II. LEGAL CLAIMS**

4 While petitioner does not state when he was convicted and sentenced, the California Court
5 of Appeal affirmed the conviction in 2006. *People v. Knutson*, No. H029611, 2006 WL 3639259
6 (Cal. Ct. App. Dec. 14, 2006). Petitioner states he filed several state habeas petition, but the
7 California Supreme Court denied the last petition in 2011. It seems this petition is untimely as it
8 was filed several years after the one year statute of limitations. In addition, the petition does not
9 set forth specific habeas claims and much of it is illegibly handwritten and incomprehensible.
10 Petitioner previously filed a habeas case in this Court regarding the same conviction in 2008 that
11 was dismissed without prejudice. *Knutson v. Jacquez*, Case No. 08-cv-5694-CW. The
12 handwritten filings in that case were also difficult to decipher and the claims were
13 incomprehensible. Docket No. 14 in Case No. 08-cv-5694-CW. In this case, the petition will be
14 dismissed with leave to amend for petitioner to address the timeliness issue and present clear
15 legible claims regarding his conviction.

16 **CONCLUSION**

- 17 1. Leave to proceed in forma pauperis (Docket No. 7) is **GRANTED**.
- 18 2. The motion for discovery (Docket No. 5) and motion to expand the record (Docket
19 No. 6) are **DENIED**.
- 20 3. The petition is **DISMISSED** with leave to amend in accordance with the standards
21 set forth above. The amended petition must be filed within **twenty-eight (28) days** of the date this
22 order is filed and must include the caption and civil case number used in this order and the words
23 AMENDED PETITION on the first page. Failure to amend within the designated time will result
24 in the dismissal of this action.

25 **IT IS SO ORDERED.**

26 Dated: June 17, 2014

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JAMES DONATO
United States District Judge