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

STEPHEN LIEBB,	)	No. C 07-5577 CW (PR)
	)	
Petitioner,	)	
	)	ORDER REOPENING CASE AND
v.	)	VACATING ORDER CONSOLIDATING THE
	)	PETITION WITH CASE NO. C 04-
R. AYERS, Jr., Warden,	)	04213 CW (PR)
	)	
Respondent.	)	
_____	)	

Petitioner Stephen Liebb filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 in Case No. C 07-5577 CW (PR) challenging the Board of Parole Hearings' (BPH) refusal to set a parole date at his fourth parole suitability hearing on July 27, 2006. He also had pending before this Court Case No. C 04-04213 CW (PR), a habeas corpus petition which challenges the findings of the BPH at Petitioner's July 17, 2003 parole suitability hearing.

In an Order dated January 22, 2008, the Court sua sponte consolidated his petition in Case No. C 07-5577 CW (PR) with the earlier one.

On January 29, 2008, Respondent filed an objection to the Court's January 22, 2008 Order. Respondent claims that nowhere in the petition in Case No. C 07-5577 CW (PR) does Petitioner "allege that he presented his claims in the state court, provide any information regarding any state court proceedings and the claims he raised there, or argue that the state court's proceedings were contrary to or an unreasonable application of clearly established

United States District Court  
For the Northern District of California

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United States Supreme Court law." (Objection at 2.)

It appears that Petitioner may not have exhausted his state remedies before filing the petition relating to his July 27, 2006 parole suitability hearing. (Pet. at 4-7.)

For this reason, the Court VACATES its January 22, 2008 Order. The Clerk of the Court shall REOPEN Case No. C 07-5577 CW (PR). The Clerk shall file a copy of this Order in Case No. C 04-4213 CW (PR), and shall serve a copy of this Order on the State Attorney General who is listed as Respondent's counsel in Case No. C 04-4213 CW (PR). The Clerk also shall send a copy of this Order to Petitioner.

The Court will review the petition filed in Case No. C 07-5577 CW (PR) in a separate written order.

IT IS SO ORDERED.

DATED: 2/5/08



CLAUDIA WILKEN  
United States District Judge

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 LIEBB,

5 Plaintiff,

Case Number: CV04-04213 CW  
CV07-05577 CW

6 v.

**CERTIFICATE OF SERVICE**

7 BROWN et al,

8 Defendant.  
\_\_\_\_\_ /

9  
10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

11 That on February 5, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said  
12 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
13 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
14 located in the Clerk's office.

15 Denise Alayne Yates  
16 Office of the Attorney General  
17 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004

18 Stephen Liebb C-60825  
19 San Quentin State Prison  
San Quentin, CA 94974

20 Dated: February 5, 2008

21 Richard W. Wiekling, Clerk  
22 By: Sheilah Cahill, Deputy Clerk  
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