IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEITH E. MCKINLEY,

No. C 08-01479 SBA (PR)

Petitioner,

ORDER TO SHOW CAUSE

v.

D. K. SISTO, Warden,

Respondent.

Petitioner, a state prisoner, has filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has paid the \$5.00 filing fee. It does not appear from the face of the petition that it is without merit. Good cause appearing, the Court hereby issues the following orders:

- 1. The Clerk of the Court shall serve a copy of this Order and the petition and all attachments thereto upon Respondent and Respondent's attorney, the Attorney General of the State of California. The Clerk shall also serve a copy of this Order on Petitioner at his current address.
- 2. Respondent shall file with this Court and serve upon Petitioner, within **one-hundred** and twenty (120) days of the issuance of this Order, 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 issued. Respondent shall file with the Answer a copy of all portions of the relevant state records that have been transcribed previously and that are relevant to a determination of the issues presented by the petition.

- 3. If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse with the Court and serving it on Respondent within **sixty** (60) **days** of his receipt of the Answer. Should Petitioner fail to do so, the petition will be deemed submitted and ready for decision **sixty** (60) **days** after the date Petitioner is served with Respondent's Answer.
- 4. Respondent may file a motion to dismiss on procedural grounds in lieu of an Answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an opposition or statement of non-opposition to the motion within sixty (60) days of receipt of the motion, and Respondent shall file with the Court and serve on Petitioner a reply within fifteen (15) days of receipt of any opposition.
- 5. It is Petitioner's responsibility to prosecute this case. Petitioner must keep the Court and Respondent informed of any change of address and must comply with the Court's orders in a timely fashion. Petitioner must also serve on Respondent's counsel all communications with the Court by mailing a true copy of the document to Respondent's counsel.
- 6. Extensions of time are not favored, though reasonable extensions will be granted. Any motion for an extension of time must be filed no later than **ten (10) days** prior to the deadline sought to be extended.

IT IS SO ORDERED.

DATED: <u>8/29/08</u>

SAUNDRA BROWN ARMSTRO United States District Judge

1	UNITED STATES DISTRICT COURT	
2	FOR THE	
3	NORTHERN DISTRICT OF CALIFORNIA	
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5		
6	KEITH E. MCKINLEY,	Case Number: CV08-01479 SBA
7	Plaintiff,	CERTIFICATE OF SERVICE
8	v.	
9	D.K. SISTO et al,	
10	Defendant.	
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12	I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.	
13	That on September 4, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing sai envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.	
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17	Keith Ellsworth McKinley V-05927	
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20	Dated: September 4, 2008	Richard W. Wieking, Clerk
21	By: LISA R CLARK, Deputy Clerk	
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