

United States District Court
For the Northern District of California

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

DU LE,

No. C 08-3293 SBA (PR)

Petitioner,

**ORDER LIFTING STAY AND DIRECTING
RESPONDENT TO SHOW CAUSE WHY
THE WRIT SHOULD NOT BE GRANTED**

v.

V.M. ALMAGER, Warden,

Respondent.

Petitioner, a state prisoner, has filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On November 14, 2008, the Court issued an Order granting Petitioner's request for a stay of proceedings while he returned to state court to exhaust his administrative remedies. On January 25, 2010, Petitioner informed the Court that his state proceedings had concluded, and he filed a first amended habeas petition containing his exhausted claims. (Docket 21.)

Before the Court is Petitioner's motion to lift the stay of proceedings and implied motion for leave to file his first amended petition.

Good cause appearing, the Court GRANTS the motion to lift the stay and GRANTS Petitioner leave to file his first amended petition. The Clerk of the Court is directed to mark Petitioner's first amended petition as filed on January 22, 2010, the date it was received.

1 The Clerk of the Court shall REOPEN this case and serve a copy of this Order and the first
2 amended petition and all attachments thereto upon Respondent and Respondent's attorney, the
3 Attorney General of the State of California.

4 Respondent shall file with this Court and serve upon Petitioner, within **sixty (60) days** of the
5 issuance of this Order, an answer conforming in all respects to Rule 5 of the Rules Governing
6 Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent
7 shall file with the answer a copy of all portions of the state trial record that have been transcribed
8 previously and that are relevant to a determination of the issues presented by the petition.

9 If Petitioner wishes to respond to the answer, he shall do so by filing a traverse with the
10 Court and serving it on Respondent within **thirty (30) days** of his receipt of the answer. Otherwise,
11 the petition will be deemed submitted and ready for decision thirty days after the date Petitioner is
12 served with Respondent's answer. Petitioner is reminded that all communications with the Court,
13 whether by way of formal legal motions or informal letters, must be through his counsel.

14 Extensions of time are not favored, though reasonable extensions will be granted. Any
15 motion for an extension of time must be filed no later than **seven (7) days** prior to the deadline
16 sought to be extended.

17 IT IS SO ORDERED.

18 DATED: 2/5/10


SAUNDRA BROWN ARMSTRONG
United States District Judge

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