

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

3 ALFRED E. DIXON,

No. C 08-03832 SBA (PR)

4 Petitioner,

**ORDER GRANTING PETITIONER  
ADDITIONAL TIME TO FILE  
OPPOSITION TO MOTION TO  
DISMISS**

5 v.

6 EDMUND G. BROWN, JR., Warden,

7 Respondent.  
8 \_\_\_\_\_/

9 Petitioner Alfred E. Dixon, a state prisoner proceeding pro se, filed a petition for a  
10 writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the constitutional validity of  
11 his state conviction. On April 22, 2009, the Court ordered Respondent to show cause why  
12 the petition should not be granted. On August 21, 2009, Respondent moved to dismiss the  
13 petition as a mixed petition containing both exhausted and unexhausted claims. Petitioner  
14 opposed the motion.

15 In an Order dated March 16, 2010, the Court granted the motion to dismiss and  
16 ordered Petitioner to make an election regarding how he wanted to proceed with regard to his  
17 unexhausted claims. Thereafter, on April 7, 2010, Petitioner filed a letter requesting a stay of  
18 the proceedings while he completed the process of exhausting his unexhausted claims. On  
19 May 5, 2010, the Court issued an order staying the petition and administratively closing the  
20 case. (Dkt. 20).

21 On February 17, 2011, Petitioner filed a status report indicating that he had exhausted  
22 all claims in state court. (Dkt. 34). On March 1, 2011, the Court ordered that Petitioner file  
23 an amended petition within thirty days of the filing date of the order. (Dkt. 35). Petitioner  
24 timely filed his amended petition on March 11, 2011. (Dkt. 37). On March 16, 2011, the  
25 Court lifted the stay and issued an Order for Respondent to show cause why the amended  
26 petition should not be granted. (Dkt. 39).

27 On May 9, 2011, Respondent filed a motion to dismiss the amended petition as  
28 untimely and for failure to exhaust state remedies. (Dkt. 43). Petitioner has not filed an

1 opposition. However, on May 4, 2011, Petitioner filed a letter indicating that he had been  
2 moved. (Dkt. 42). Petitioner indicates his address is now:

3 F-11362 Housing B-14-132 Low  
4 Donovan State Prison, PO Box 799002  
San Diego, CA 92179-9002

5 On September 21, 2011, Petitioner filed a letter requesting his case status, indicating  
6 that he had not received Respondent's motion to dismiss. The certificate of service attached  
7 to Respondent's motion indicates that it did not include the designation "B-14-132 Low" in  
8 Petitioner's new address. As such, it is possible that the motion was not delivered to  
9 Petitioner. Therefore, the Court will allow Petitioner thirty days from the date this order is  
10 filed in which to file an opposition to Respondent's motion to dismiss. The Clerk of the  
11 Court shall ensure that Petitioner's correct address is on the docket. The Clerk of the Court  
12 shall send to Petitioner a copy of Respondent's motion to dismiss together with this Order.

13 **CONCLUSION**

14 For the foregoing reasons,

15 IT IS HEREBY ORDERED THAT:


16 1. Petitioner is granted thirty (30) days from the date of this Order is filed to file his  
17 opposition to Respondent's motion to dismiss. If Petitioner does not file an opposition  
18 within this time frame, Respondent's motion will be deemed unopposed and any facts or  
19 evidence submitted by Respondent will be undisputed and, therefore, may be taken to be  
20 true.

21 2. The Clerk of the Court shall input Petitioner's correct address on the docket.

22 3. The Clerk of the Court shall sent to Petitioner a copy of Respondent's motion to  
23 dismiss along with a copy of this Order.

24 IT IS SO ORDERED.

25 DATED: 1/30/13 \_\_\_\_\_

26   
SAUNDRA BROWN ARMSTRONG  
27 United States District Judge  
28

1 G:\PRO-SE\SBA\HC.08\Dixon3832.EOT Opp.wpd

2 UNITED STATES DISTRICT COURT

3 FOR THE

4 NORTHERN DISTRICT OF CALIFORNIA

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6

7 ALFRED E DIXON,

Case Number: CV08-03832 SBA

8 Plaintiff,

**CERTIFICATE OF SERVICE**

9 v.

10 EDMUND G BROWN JR et al,

11 Defendant.

12

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

15 That on January 31, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said  
16 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
17 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
18 located in the Clerk's office.

17

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19 Alfred E. Dixon F-11362  
20 Donovan State Prison  
P.O. Box 799002  
San Diego, CA 92179-9002

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Dated: January 31, 2013

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Richard W. Wieking, Clerk  
By: Lisa Clark, Deputy Clerk

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