

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

3
4 GARY SMITH, No. C 009-00097 CW (PR)
5 Petitioner, ORDER TO SHOW CAUSE
6 v.
7 BEN CURRY, Warden,
8 Respondent. /

9
10 Petitioner, a state prisoner, has filed this petition for a
11 writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has paid
12 the \$5.00 filing fee. It does not appear from the face of the
13 petition that it is without merit. Good cause appearing, the Court
14 hereby issues the following orders:

15 1. The Clerk of the Court shall serve a copy of this Order
16 and the petition and all attachments thereto upon Respondent and
17 Respondent's attorney, the Attorney General of the State of
18 California. The Clerk shall also serve a copy of this Order on
19 Petitioner at his current address.

20 2. Respondent shall file with this Court and serve upon
21 Petitioner, within one-hundred twenty (120) days of the issuance of
22 this Order, an Answer conforming in all respects to Rule 5 of the
23 Rules Governing Section 2254 Cases, showing cause why a writ of
24 habeas corpus should not be issued. Respondent shall file with the
25 Answer a copy of all portions of the relevant state records that
26 have been transcribed previously and that are relevant to a
27 determination of the issues presented by the petition.

28 3. If Petitioner wishes to respond to the Answer, he shall
do so by filing a Traverse with the Court and serving it on

1 Respondent within sixty (60) days of his receipt of the Answer.
2 Should Petitioner fail to do so, the petition will be deemed
3 submitted and ready for decision sixty (60) days after the date
4 Petitioner is served with Respondent's Answer.

5 4. Respondent may file a motion to dismiss on procedural
6 grounds in lieu of an Answer, as set forth in the Advisory
7 Committee Notes to Rule 4 of the Rules Governing Section 2254
8 Cases. If Respondent files such a motion, Petitioner shall file
9 with the Court and serve on Respondent an opposition or statement
10 of non-opposition to the motion within sixty (60) days of receipt
11 of the motion, and Respondent shall file with the Court and serve
12 on Petitioner a reply within fifteen (15) days of receipt of any
13 opposition.

14 5. It is Petitioner's responsibility to prosecute this case.
15 Petitioner must keep the Court and Respondent informed of any
16 change of address and must comply with the Court's orders in a
17 timely fashion. Petitioner must also serve on Respondent's counsel
18 all communications with the Court by mailing a true copy of the
19 document to Respondent's counsel.

20 6. Extensions of time are not favored, though reasonable
21 extensions will be granted. Any motion for an extension of time
22 must be filed no later than ten (10) days prior to the deadline
23 sought to be extended.

24 IT IS SO ORDERED.

25 Dated: 6/30/09



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

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

4 GARY SMITH,
5 Plaintiff,

Case Number: CV09-00097 CW

6 v.

CERTIFICATE OF SERVICE

7 BEN CURRY et al,
8 Defendant.

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

11 That on June 30, 2009, 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 said
13 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located
14 in the Clerk's office.

15 Gary Smith D-39109
16 Correctional Training Facility - Soledad
17 P.O. Box 705
18 Soledad, CA 93960

19 Attorney General
20 State of California
21 455 Golden Gate Avenue, #11000
22 San Francisco, CA 94102

23 Ben Curry, Warden
24 Correctional Training Facility - Soledad
25 P.O. Box 686
26 Soledad, CA 93960

27 Dated: June 30, 2009

28 Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk