

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

LEROY PAUL LUJAN,
Petitioner,
v.
BEN CURRY, Warden,
Respondent.

No. C 08-0474 CW (PR)
C 09-0462 CW (PR)

ORDER DENYING MOTION TO
APPOINT COUNSEL; GRANTING
LEAVE TO PROCEED IN FORMA
PAUPERIS

_____ /

In an Order filed on September 17, 2010, the Court granted Leroy Paul Lujan's pro se Petitions for a Writ of Habeas Corpus under 28 U.S.C. § 2254 and directed the Board of Parole Hearings to set a parole date for Petitioner in accordance with California Penal Code § 3041(a).

On September 28, 2010, Respondent filed a motion to stay the Court's Order pending appeal or, alternatively, a temporary stay of the Order to allow Respondent time to seek a stay in the Ninth Circuit. On October 4, 2010, the Court ordered a temporary stay and informed Petitioner that if he wished to be appointed counsel, he was required to submit a completed in forma pauperis (IFP) application along with a request for counsel.


On October 13, 2010, Petitioner filed in this Court a motion

1 to appoint counsel and motion for leave to proceed IFP. That same
2 day, the Court of Appeal granted Respondent's motion to stay this
3 Court's September 17, 2010 Order pending appeal and denied
4 Petitioner's motion for appointment of counsel.

5 In light of the Court of Appeal's October 13, 2010 order,
6 Petitioner's motion to appoint counsel is DENIED. Consequently,
7 because Petitioner is not the party seeking an appeal, his motion
8 for leave to proceed IFP appears to be unnecessary. Cf. Fed. R.
9 App. P. 24(a). However, should the Court of Appeal determine at a
10 later date that appointment of counsel is warranted in this appeal,
11 the Court GRANTS Petitioner's motion to proceed IFP.

12 IT IS SO ORDERED.

13 Dated: 10/20/2010



14 _____
15 CLAUDIA WILKEN
16 United States District Judge
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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 LEROY PAUL LUJAN,

5 Plaintiff,

6 v.

7 BEN CURRY et al,

8 Defendant.

Case Number: CV08-00474 CW
CV09-00462 CW

CERTIFICATE OF SERVICE

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

11 That on October 20, 2010, 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 Leroy Paul Lujan E-76840
16 Correctional Training Facility
17 P.O. Box 689 / East Dorm 8-Low
18 Soledad, CA 93960-0689

19 Dated: October 20, 2010

Richard W. Wieking, Clerk
By: Nikki Riley, Deputy Clerk