

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

CHRIS BARKLEY,

Petitioner,

v.

JAMES NUEHRING, Warden,

Respondent.

No. C 10-05389 CW (PR)

ORDER GRANTING IN FORMA
PAUPERIS STATUS AND DIRECTING
RESPONDENT TO SHOW CAUSE WHY
THE PETITION SHOULD NOT BE
GRANTED

Petitioner, a state prisoner, has filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He also seeks leave to proceed in forma pauperis. 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. Petitioner's application to proceed in forma pauperis is GRANTED.

2. 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.

3. Respondent shall file with this Court and serve upon Petitioner, within one-hundred 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.

1 4. If Petitioner wishes to respond to the Answer, he shall
2 do so by filing a Traverse with the Court and serving it on
3 Respondent within sixty (60) days of his receipt of the Answer.
4 Should Petitioner fail to do so, the petition will be deemed
5 submitted and ready for decision sixty (60) days after the date
6 Petitioner is served with Respondent's Answer.

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

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

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

27 IT IS SO ORDERED.

28 Dated: 1/10/2011



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

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

4 CHRIS BARKLEY,

5 Plaintiff,

6 v.

7 JAMES NUEHRING et al,

8 Defendant.

Case Number: CV10-05389 CW

CERTIFICATE OF SERVICE

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 January 10, 2011, 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
13 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
14 receptacle located in the Clerk's office.

15 Chris Barkley T-96570
16 5501 N La Palma Rd.
17 Eloy, AZ 85131

Dated: January 10, 2011

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

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For the Northern District of California

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