

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

3                    DARYL BOUIE,                                    No. C 10-05650 CW (PR)  
4                                    Petitioner,                                    ORDER OF DISMISSAL  
5                    v.  
6                    VINCENT S. CULLEN,  
7                                    Respondent.  
8 \_\_\_\_\_/

9                    On December 13, 2010, Petitioner, a state prisoner, filed a  
10 document with the Court entitled, "Motion for Continuance of Time  
11 for Filing My Writ of Habeas Corpus With the Federal Court System,"  
12 which was opened as a habeas corpus action. In his motion,  
13 Petitioner requests "additional time for filing [his] writ of  
14 habeas corpus in the federal court, stemming from the denial of  
15 [his] state supreme court writ on 11/17/10, S182357." (Pet'r Mot.  
16 at 1.) He further states: "I am requesting an additional 30 days  
17 after my release from administrative segregation and being released  
18 to general population, where I can successfully obtain law library  
19 access and acquire the legal documents that are in my boxed-up  
20 property." (Id.)

21                    On the same day the action was filed the Clerk of the Court  
22 sent a notice to Petitioner informing him that his action could not  
23 go forward until he filed with the Court a habeas corpus petition  
24 form, completed in full, within thirty days or his action would be  
25 dismissed. He was also sent another notice directing him to either  
26 pay the filing fee or file a completed prisoner's in forma pauperis  
27 (IFP) application. The Clerk sent Petitioner a blank IFP  
28 application and told him that he must pay the fee or return the

1 completed application within thirty days or his action would be  
2 dismissed.

3 On January 24, 2011, the Clerk sent Petitioner a second notice  
4 directing him to file his IFP application and a habeas corpus  
5 petition form within thirty days or his action would be dismissed.

6 On January 31, 2011, Petitioner sent a letter to the Court  
7 requesting another extension of time to file his petition because  
8 he was being "illegally barred from having access to [his] legal  
9 property, [from] all law library access, and the administration  
10 won't even sign my pauperis form." (Jan. 31, 2011 Letter at 1.)

11 On February 11, 2011, the Clerk sent Petitioner a third  
12 notice, granting him another thirty-day extension of time in which  
13 to file the requisite documents or his action would be dismissed.

14 More than thirty days have passed since the date of the  
15 Clerk's third notice, and Petitioner has not filed a petition or  
16 his IFP application.

17 Accordingly, this action is DISMISSED without prejudice for  
18 failure to prosecute, pursuant to Federal Rule of Civil Procedure  
19 41(b). Because the Court has already provided Petitioner with  
20 three extensions of time to file his petition and IFP application,  
21 his "Motion for Continuance of Time for Filing My Writ of Habeas  
22 Corpus With the Federal Court System" (docket no. 1) is DENIED as  
23 moot.

24 The Clerk shall enter judgment in accordance with this Order,  
25 terminate all pending motions and close the file.

26 IT IS SO ORDERED.

27 Dated: 4/19/2011

28



CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE

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

4 DARYL BOUIE,  
5 Plaintiff,

Case Number: CV10-05650 CW

**CERTIFICATE OF SERVICE**

6 v.

7 VINCENT S CULLEN 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 April 19, 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 Daryl Bouie E-31124  
16 CSP-San Quentin  
17 3-D-30  
18 San Quentin, CA 94974

19 Dated: April 19, 2011

20 Richard W. Wieking, Clerk  
21 By: Nikki Riley, Deputy Clerk  
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United States District Court  
For the Northern District of California