

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

FILED
 JUN 17 2013

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND

3 JEDIDIAH AUSTIN SHOEMAKER,

No. C 11-2674 SBA (PR)

4 Petitioner,

**ORDER GRANTING IMPLIED MOTION
 TO RE-OPEN CASE, TO LIFT STAY,
 AND TO AMEND STAYED PETITION;
 ADOPTING INSTRUCTIONS IN
 FEBRUARY 14, 2013 ORDER TO SHOW
 CAUSE FILED IN CASE NUMBER C 12-
 4773 SBA (PR); AND SETTING NEW
 BRIEFING SCHEDULE**

5 v.

6 CONNIE GIPSON,

7 Respondent.
 8 _____/

9 JEDIDIAH AUSTIN SHOEMAKER,

No. C 12-4773 SBA (PR)

10 Petitioner,

**ORDER OF DISMISSAL AS FILED IN
 ERROR**

11 v.

12 CONNIE GIPSON,

13 Respondent.
 14 _____/

15 On June 3, 2011, Petitioner, a state prisoner, filed a petition for a writ of habeas corpus
 16 pursuant to 28 U.S.C. § 2254 in Case No. C 11-2674 SBA (PR) (2011 Case). In an Order dated May
 17 4, 2012, the Court stayed the proceedings to allow Petitioner to exhaust state judicial remedies as to
 18 his unexhausted prosecutorial misconduct claim. (Dkt. 13 in 2011 Case.) The 2011 Case was
 19 administratively closed until Petitioner received a final decision from the highest state court, and
 20 then moved to re-open the action, lift the stay, and amend the stayed petition to add the newly-
 21 exhausted prosecutorial misconduct claim.

22 On September 12, 2012, Petitioner filed another petition, but he did not include the case
 23 number for the 2011 Case on the form. As a result, the Clerk of the Court opened a new habeas
 24 action, Case No. C 12-4773 SBA (PR) (2012 Case). In an Order dated February 14, 2013, the Court
 25 directed Respondent to show cause why the petition in the 2012 Case should not be granted. (Dkt. 7
 26 in 2012 Case.) On June 11, 2013, Respondent filed a motion for an extension of time up to and
 27 including July 15, 2013, in which to file an answer to the petition.
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answer to the Amended Petition will be extended up to and until **July 15, 2013**. Petitioner shall file with the Court and serve on Respondent a traverse no later than **sixty (60) days** of receipt of the answer. Should Petitioner fail to do so, the Amended Petition will be deemed submitted and ready for decision **sixty (60) days** after the date Petitioner is served with Respondent's answer.

6. This Order terminates Respondent's pending motion for extension of time, which will be filed in Case No. C 11-2674 SBA (PR).

IT IS SO ORDERED.

DATED: cd/rh

Saundra B. Armstrong
SAUNDRA BROWN ARMSTRONG
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JEDIDIAH SHOEMAKER,
Plaintiff,

Case Number: CV11-02674 SBA

CERTIFICATE OF SERVICE

v.

PEOPLE OF THE STATE OF CALIFORNIA
et al,

Defendant.

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

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

Jedidiah Austion Shoemaker G-16403
California State Prison - Solano
P.O. Box 4000
Vacaville, CA 95696-4000

Dated: June 17, 2013

Richard W. Wieking, Clerk
By: Jessie Mosley, Deputy Clerk