Doc. 3

1	IN THE UNITED STATES DISTRICT COURT	
2	FOR THE NORTHERN DISTRICT OF CALIFORNIA	
3	IN RE STEVEN BONILLA, Nos. C 11-2808 CW (PR)	
4	C 11-2823 CW (PR) Plaintiff. C 11-2824 CW (PR)	
5		
6	ORDER OF DISMISSAL; TERMINATING ALL PENDING	
7	MOTIONS	
8		
9	Plaintiff Steven Bonilla has been sentenced to death by the	
10	Superior Court of California for the County of Alameda. He is	
11	incarcerated at San Quentin State Prison. Although his State	
12	habeas case currently is being litigated, he filed a request for	
13	appointment of counsel for his future federal habeas litigation in	
14	this Court. <u>See Bonilla v. Ayers</u> , No. C 08-0471 CW (PR). Pursuant	
15	to Habeas Local Rule 2254-25, this Court granted his request for	
16	appointment of counsel and referred the matter to the Northern	
17	District's Selection Board for the recommendation of qualified	
18	counsel to represent Plaintiff in his federal habeas proceedings.	
19	Additionally, pursuant to Habeas Local Rule 2254-24(a), the Court	
20	granted Plaintiff's concurrent request for a stay of execution.	
21	(Docket no. 3.)	
22	Although Plaintiff's State habeas case is pending, Plaintiff	
23	has filed numerous <u>pro</u> <u>se</u> requests and motions in C 08-0471. All	
24	of the requests and motions have been denied by this Court or	
25	withdrawn by Plaintiff. In particular, on February 16, 2011, the	
26	Court issued an Order telling Plaintiff that no further filings	

28 accepted by this Court. (Docket no. 34.) Additionally, the Court

regarding CR 88-259 MISC AJZ (Grand Jury proceedings) would be

**United States District Court** For the Northern District of California

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dismissed with prejudice In re: Steven Wayne Bonilla, No. C 11-0441 1 2 CW (PR), a pro se complaint filed by Plaintiff regarding CR 88-259 3 On March 29, 2011, the Court denied several more MISC AJZ. (Id.) pro se motions filed by Plaintiff in C 08-0471. In doing so, the 4 5 Court wrote:

As this Court has stated multiple times, Petitioner's state habeas case is still pending in the state court. The Court reiterates to Petitioner that challenges to his state trial conviction must be reviewed by the state courts before being considered by the federal court. Until that time, Petitioner's various claims in his pro se pleadings are not ripe for this Court to consider.

10 (Docket no. 54 at 2:16-22.)

11 Most recently, Plaintiff filed thirteen pro se civil rights 12 actions under 42 U.S.C. § 1983. On June 13, 2011, the Court issued 13 an Order dismissing all of said actions for the reason none of the 14 allegations in Plaintiff's complaints stated a claim for relief 15 under § 1983. After explaining to Plaintiff that challenges to the 16 lawfulness of confinement or its duration can be addressed only by 17 way of habeas corpus, the Court concluded as follows:

18 Here, in an apparent attempt to circumvent this Court's prior admonition to Plaintiff that no further filings regarding CR 88-259 MISC AJZ would be accepted by the Court and that additional unripe pro se motions in C 08-20 0471 would be denied, Plaintiff has filed the instant civil rights complaints in which he seeks access to certain discovery, witness testimony, declarations and other information that he claims would render his death 22 penalty conviction invalid, including information regarding CR 88-259 MISC AJZ. Because all of Plaintiff's 23 civil rights complaints seek relief that must be pursued by way of habeas corpus, all of the instant civil rights 24 actions are hereby DISMISSED without prejudice to Plaintiff's bringing his claims in a federal habeas See Trimble v. City of Santa Rosa, 49 F.3d petition. 583, 586 (9th Cir. 1995). Plaintiff is reminded, 26 however, that he must heed the Court's prior admonitions before filing additional pro se matters in C 08-0471.

Order of Dismissal at 2:28-3:15. 28

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3 civil rights actions, these actions seek access to information that would render Plaintiff's death penalty conviction invalid. 4 5 Accordingly, the actions are hereby DISMISSED without prejudice to Plaintiff's bringing his claims in a federal habeas petition. See 6 7 Trimble v. City of Santa Rosa, 49 F.3d 583, 586 (9th Cir. 1995). 8 Additionally, because the Court has determined that none of 9 the instant civil rights complaints can proceed as a civil rights 10 action but, instead, must be dismissed, the Clerk of the Court is 11 hereby DIRECTED to terminate, in each action, Plaintiff's pending 12 motion to proceed in forma pauperis. No filing fee is due.

The Clerk of the Court shall enter judgment in each of the above civil rights actions, terminate all pending motions therein, and close the files. <u>The Clerk of the Court also shall file a copy</u> of this Order in C 08-0471.

Now pending before the Court are three new pro se civil rights

actions filed by Plaintiff. As with Plaintiff's thirteen previous

IT IS SO ORDERED.

19 Dated: 6/16/2011

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CLAUDIA WILKEN UNITED STATES DISTRICT JUDGE

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1	UNITED STATES DISTRICT COURT FOR THE		
2	NORTHERN DISTRICT OF CALIFORNIA		
3	STEVEN W BONILLA,		
4	Plaintiff,	ase Number: CV11-02808 CW(PR) CV11-2823 CW (PR) CV11-2824 CW (PR)	
5	v.	CV11-2824 CW (PR)	
6 7	QUINTIN L SMITH et al, C	ERTIFICATE OF SERVICE	
8	Defendant.		
9			
10	I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.		
11	That on June 16, 2011, 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.		
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14	14		
15	Steven Wayne Bonilla J-48500 San Quentin State Prison		
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17	Richard W.	Wieking, Clerk	
18		Riley, Deputy Clerk	
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**United States District Court** For the Northern District of California

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