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

RAYMOND TIMOTHY FRANK,

No. C 11-05204 SBA (PR)

Petitioner,

**ORDER TO SHOW CAUSE AND
DIRECTING RESPONDENT TO
RESPOND TO PETITIONER'S
APPLICATION TO FILE AMICUS
BRIEF**

v.

FRANK X. CHAVEZ, Warden,

Respondent.

Petitioner, a state prisoner, has filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has paid the \$5.00 filing fee. Petitioner has also filed a document entitled, "Application to File Brief of Amicus Curiae of Physicians and Bio-Scientists on Behalf of Petitioner Raymond Frank" (docket no. 2). The Court chooses not to rule on Petitioner's application until Respondent is given the opportunity to respond to it; therefore, the parties shall abide by the briefing schedule outlined below.

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. 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.

2. Respondent shall file with this Court and serve upon Petitioner, within **sixty (60) 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

1 been transcribed previously and that are relevant to a determination of the issues presented by the
2 petition. Along with his Answer, Respondent shall also file a Response to Petitioner's "Application
3 to File Brief of Amicus Curiae of Physicians and Bio-Scientists on Behalf of Petitioner Raymond
4 Frank."

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

10 4. Respondent may file with this Court and serve upon Petitioner, within **sixty (60) days**
11 of the issuance of this Order, a motion to dismiss on procedural grounds in lieu of an Answer, as set
12 forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If
13 Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an
14 opposition or statement of non-opposition to the motion within **sixty (60) days** of receipt of the
15 motion, and Respondent shall file with the Court and serve on Petitioner a reply within **fifteen (15)**
16 **days** of receipt of any opposition. Even if Respondent chooses to file a motion to dismiss, the
17 parties are still directed to abide by the briefing schedule above relating to Petitioner's application to
18 file an amicus brief.

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

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

26 IT IS SO ORDERED.

27 DATED: 12/12/11


SAUNDRA BROWN ARMSTRONG
United States District Judge

28

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

4
5
6 RAYMOND TIMOTHY FRANK,
7 Plaintiff,

Case Number: CV11-05204 SBA
CERTIFICATE OF SERVICE

8 v.

9 FRANK X. CHAVEZ et al,
10 Defendant.

11
12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
13 Court, Northern District of California.

14 That on December 13, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
16 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
17 located in the Clerk's office.

18 Raymond Timothy Frank V-72179
19 Sierra Conservation Center
5150 O'Byrnes Ferry Road
Jamestown, CA 95327

20 Dated: December 13, 2011

21 Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk

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