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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 WILBERTO BELARDO,
9 Petitioner,

No. C 14-02496 YGR (PR)

ORDER TO SHOW CAUSE

10 vs.

11 KIM HOLLAND, Warden,
12 Respondent.
13 _____/

14 Petitioner, a state prisoner, has filed this petition for a writ of habeas corpus pursuant to
15 28 U.S.C. § 2254. He has paid the \$5.00 filing fee. It does not appear from the face of the petition
16 that it is without merit. Good cause appearing, the Court hereby issues the following orders:

17 1. The Clerk of the Court shall serve a copy of this Order and the petition and all
18 attachments thereto upon Respondent and Respondent's attorney, the Attorney General of the State
19 of California. The Clerk shall also serve a copy of this Order on Petitioner at his current address.

20 2. Respondent shall file with this Court and serve upon Petitioner, within **sixty (60)**
21 **days** of the issuance of this Order, an Answer conforming in all respects to Rule 5 of the Rules
22 Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued.
23 Respondent shall file with the Answer a copy of all portions of the relevant state records that have
24 been transcribed previously and that are relevant to a determination of the issues presented by the
25 petition.

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

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

8 5. It is Petitioner's responsibility to prosecute this case. Petitioner must keep the Court
9 and Respondent informed of any change of address and must comply with the Court's orders in a
10 timely fashion. Pursuant to Northern District Local Rule 3-11 a party proceeding *pro se* whose
11 address changes while an action is pending must promptly file a notice of change of address
12 specifying the new address. *See* L.R. 3-11(a). The Court may dismiss a *pro se* action without
13 prejudice when: (1) mail directed to the *pro se* party by the Court has been returned to the Court as
14 not deliverable, and (2) the Court fails to receive within sixty days of this return a written
15 communication from the *pro se* party indicating a current address. *See* L.R. 3-11(b); *see also*
16 *Martinez v. Johnson*, 104 F.3d 769, 772 (5th Cir. 1997) (Rule 41(b) applicable in habeas cases).

17 Petitioner must also serve on Respondent's counsel all communications with the Court by
18 mailing a true copy of the document to Respondent's counsel.

19 6. Extensions of time are not favored, though reasonable extensions will be granted.
20 Any motion for an extension of time must be filed no later than **fourteen (14) days** prior to the
21 deadline sought to be extended.

22 7. Kim Holland, the current warden of the prison where Petitioner is incarcerated, has
23 been substituted as Respondent pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

24 IT IS SO ORDERED.

25 DATED: July 28, 2014


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

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