IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY KOZLOWSKI, Petitioner, v. WARDEN FRED FOULK, Respondent.	No. C 13-1340 LHK (PR) ORDER REOPENING CASE; DENYING MOTION FOR EXTENSION OF TIME; SETTING BRIEFING SCHEDULE (Docket No. 11)

On March 25, 2013, petitioner, a state prisoner proceeding *pro se*, filed a federal writ of habeas corpus and a motion for leave to proceed *in forma pauperis* ("IFP"). On June 4, 2013, the court denied petitioner's motion for leave to proceed IFP and issued an order to show cause to respondent. The court ordered petitioner to pay the $5.00 filing fee within thirty days or face dismissal of this action. On August 6, 2013, the court dismissed the case because petitioner had not paid the filing fee. On August 12, 2013, petitioner filed a motion for an extension of time to file a traverse. (Docket No. 11.) On August 13, 2013, petitioner paid the filing fee.

In the interest of justice, the court *sua sponte* orders these proceedings to be **REOPENED**. Petitioner's motion for an extension of time is **DENIED** as premature.

The Clerk is directed to serve by mail a copy of this order upon the respondent and the respondent's attorney, the Attorney General of the State of California. The Clerk shall also serve a copy of this order on petitioner.

Respondent shall file with the court and serve on petitioner, within **sixty days** of the date

this order is filed, 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 granted. Respondent shall file with the answer and serve on petitioner a copy of all portions of the underlying state criminal record that have been transcribed previously and that are relevant to a determination of the issues presented by the petition. If petitioner wishes to respond to the answer, he shall do so by filing a traverse with the court and serving it on respondent within **thirty days** of the date the answer is filed.

Respondent may file a motion to dismiss on procedural grounds in lieu of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases within **sixty days** of the date this order is filed. If respondent files such a motion, petitioner shall file with the court and serve on respondent an opposition or statement of non-opposition within **twenty-eight days** of the date the motion is filed, and respondent shall file with the court and serve on petitioner a reply within **fourteen days** of the date any opposition is filed.

It is petitioner's responsibility to prosecute this case. Petitioner is reminded that all communications with the court must be served on respondent by mailing a true copy of the document to respondent's counsel. Petitioner must keep the court and all parties informed of any change of address by filing a separate paper captioned "Notice of Change of Address." He must comply with the court's orders in a timely fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

This order terminates docket number 11.

IT IS SO ORDERED.

DATED: 9/10/13

Lucy H. Koh
LUCY H. KOH
United States District Judge