Vera v. Adams et al Doc. 12

> 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF CALIFORNIA 10 11 GUILLERMO VERA, Civil No. 10-1940 LAB (BLM) 12 Petitioner. **ORDER:** 13 v. (1) GRANTING APPLICATION TO 14 PROCEED IN FORMA PAUPERIS and KATHY ALISON, Warden, 15 (2) SUA SPONTE SUBSTITUTING RESPONDENT 16 Respondent. 17 Petitioner, a state prisoner proceeding pro se, has submitted a Petition for Writ of Habeas 18 Corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis. 19 APPLICATION TO PROCEED IN FORMA PAUPERIS 20 Petitioner has \$0.00 on account at the California correctional institution in which he is 21 presently confined. Petitioner cannot afford the \$5.00 filing fee. Thus, the Court **GRANTS** 22 Petitioner's application to proceed in forma pauperis, and allows Petitioner to prosecute the 23 above-referenced action as a poor person without being required to prepay fees or costs and 24 without being required to post security. The Clerk of the Court shall file the Petition for Writ 25 of Habeas Corpus without prepayment of the filing fee. 26 27 28 -1-

## SUBSTITUTION OF RESPONDENT

Petitioner is currently confined at California State Prison, Corcoran, and has named Kathy Alison, Warden, as Respondent. According to the official California Department of Corrections and Rehabilitation ("CDCR") website, Connie Gipson is the Warden of California State Prison, Corcoran, not Kathy Alison, as named by Petitioner. See Daniels-Hall v. Nat'l Educ. Ass'n., 629 F.3d 992, 998-99 (9th Cir. 2010) (taking judicial notice of information posted on government website, the accuracy of which was undisputed). Because the possibility exists that the Warden of California State Prison, Corcoran has changed since Petitioner submitted his Petition and the information on the CDCR website reflects that change, and because under a liberal construction of the petition it appears Petitioner has named the Warden by his or her official title, and in order to conform with the requirements of Rule 2(a) of the Rules Governing § 2254 Cases and avoid changing the Respondent again if Petitioner is transferred to another prison or paroled, the Court hereby sua sponte **ORDERS** the substitution of Matthew Cate, Secretary of the California Department of Corrections and Rehabilitation, as Respondent in place of "Kathy Alison." See Ortiz-Sandoval v. Gomez, 81 F.3d 891, 894 (9th Cir. 1996) (stating that the respondent in § 2254 proceedings may be the chief officer in charge of state penal institutions); Fed.R.Civ.P.25(d). The Clerk of the Court shall modify the docket to reflect "Matthew Cate, Secretary" as respondent in place of "Kathy Alison."

## **CONCLUSION AND ORDER**

In light of the above, the Court **GRANTS** Petitioner's request to proceed in forma pauperis, and sua sponte **ORDERS** the substitution of "Matthew Cate, Secretary" as Respondent in place of "Kathy Alison."

IT IS SO ORDERED.

DATED: August 9, 2012

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HONORABLE LARRY ALAN BURNS United States District Judge

Cam A. Bunn