

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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|-----------------|---|-------------------------|
| JAMIE FARTHING, | : | |
| | : | |
| Petitioner, | : | Civil No. 10-0572 (JLL) |
| | : | |
| v. | : | ORDER TO ANSWER |
| | : | |
| HAUCK, et al., | : | |
| | : | |
| Respondents. | : | |

IT APPEARING THAT:

1. A Petition for Writ of Habeas Corpus having been filed in the above action pursuant to 28 U.S.C. § 2254, and notice having been given pursuant to Mason v. Meyers, 208 F.3d 414 (3d Cir. 2000).

2. Due to clerical error, the original Order to Answer was improperly docketed.

3. The original docketed Order to Answer should be withdrawn.

IT IS on this 9th day of December, 2010,
ORDERED that the Clerk of the Court shall strike docket entry number 5 from the docket;

ORDERED that the Clerk of the Court shall serve copies of the Petition, this Order, and all other documents docketed in this matter upon Respondents and the Attorney General of the State of New Jersey, by certified mail, return receipt requested, with all costs of service advanced by the United States; and it is further

ORDERED that, in accordance with Rule 4 of the Rules Governing § 2254 Cases, this Court has examined the Petition and determined that dismissal prior to submission of an answer and the record is not warranted; and it is further

ORDERED that Respondents shall electronically file a full and complete answer to said Petition within 30 days after the entry of this Order, see Ukawabutu v. Morton, 997 F.Supp. 605 (D.N.J. 1998); and it is further

ORDERED that Respondents' answer shall respond to the factual and legal allegations of the Petition by each paragraph and subparagraph and shall adhere to Rule 5 of the Rules Governing Section 2254 Cases; and it is further

ORDERED that all non-jurisdictional affirmative defenses subject to waiver, such as timeliness, not raised in Respondents' answer or at the earliest practicable moment thereafter will be deemed waived, see Rule 5(b) of the Rules Governing § 2254 Cases; and it is further

ORDERED that the answer shall address the merits of each claim raised in the Petition, see 28 U.S.C. § 2254(b)(2); and it is further

ORDERED that Respondents' answer shall address, with respect to each claim raised in the Petition, whether Petitioner has made a substantial showing of the denial of a constitutional right

justifying issuance of a certificate of appealability, see 28 U.S.C. § 2253(c)(2); and it is further

ORDERED that the answer shall indicate what transcripts (of pre-trial, trial, sentencing, or post-conviction proceedings) are available, when they can be furnished, and what proceedings have been recorded but not transcribed; and it is further

ORDERED that Respondents shall attach to the answer such parts of the transcript as Respondents consider relevant and, if a transcript cannot be obtained, Respondents may submit a narrative summary of the evidence, see Rule 5(c) of the Rules Governing § 2254 Cases; and it is further

ORDERED that Respondents shall file with the answer a copy of: (1) any brief that Petitioner submitted in an appellate court contesting the conviction or sentence, or contesting an adverse judgment or order in a post-conviction proceeding, (2) any brief that the prosecution submitted in an appellate court relating to the conviction or sentence, and (3) the opinions and dispositive orders relating to the conviction or the sentence, see Rule 5(d) of the Rules Governing § 2254 Cases; and it is further

ORDERED that the answer shall contain an index of exhibits; and it is further


ORDERED that Respondents shall electronically file the answer, the exhibits, and the list of exhibits; and it is further

ORDERED that all exhibits to the Answer must be identified by name in the electronic filing entry, for example, "Exhibit #1 Transcript of (type of proceeding) held on XX/XX/XXXX" or "Exhibit #2 Opinion entered on XX/XX/XXXX by Judge XXXX"; and it is further

ORDERED that Petitioner may file and serve a reply to the answer within 30 days after Respondents file the answer, see Rule 5(e) of the Rules Governing § 2254 Cases; and it is further

ORDERED that, within 7 days after any change in Petitioner's custody status, be it release or otherwise, Respondents shall electronically file a written notice of the same with the Clerk of the Court; and it is further

ORDERED that the Clerk of the Court shall serve this Order on Petitioner by regular mail.



Jose L. Linares
United States District Judge