

No. S237421

18-8805

IN THE  
SUPREME COURT OF THE UNITED STATES

In Re ANDRE RENE SCOTT -PETITIONER

VS.

FILED  
OCT 05 2018  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

CANBY, WARDLAW, RAWLINSON-RESPONDENT(S)

PETITION FOR MANDAMUS/PROHIBITION

COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR MANDAMUS/PROHIBITION

ANDRE RENE SCOTT (V06776)

P.O. BOX 5248

CORCORAN, CA 93212

QUESTION(S) PRESENTED

1. IN MARBURY VERSES MADISON, THIS COURT HELD, "IT IS EMPHASITICALLY THE PROVINCE AND DUTY OF THE JUDICIAL DEPARTMENT TO SAY WHAT THE LAW IS," DOES THIS RULING YET STAND TO DATE?
2. IF A PERSON APPLY FOR ISSUANCE OF A PETITION FOR WRIT OF MANDAMUS, AND BY ORDER OF THE COURT, PAY THE FILING FEE IN FULL. WHAT HAPPENS TO THE MONEY WHEN THE APPLICATION FOR WRIT OF MANDAMUS IS REJECTED BY THE COURT?
3. CAN AN APPLICATION FOR WRIT OF MANDAMUS BE CHANGED BY A COURT TO A NOTICE OF APPEAL?
4. CAN A MOTION TO VACATE JUDGMENT BE CHANGED TO A PETITION FOR WRIT OF HABEAS CORPUS?
5. IF AN OFFICER OF THE UNITED STATES FAILS, AND OR REFUSE TO TAKE JUDICIAL NOTICE OF ACTS IN VIOLATION OF ACTS OF CONGRESS, WHAT IS THE PROPER REMEDY AND OR COURSE TO TAKE, TO WHICH SOUGHT OF A REMEDY MIGHT MANIFEST?
6. IF THE JUDGMENT OF A COURT IS CHALLENGED ON JURISDICTION, CAN A COURT AVOID SUCH CHALLENGE BY CHANGING THE NATURE OF THE PROCEEDINGS?
7. WHAT CONSTITUTES A VOID JUDGMENT?
8. WHEN AN OFFICER OF THE COURT IS CHALLENGED ON GROUNDS OF IMPARTIALITY, OR BIAS OR PREJUDICE, WHAT WOULD BE THE PROPER FORUM TO ASCERTAIN THE TRUTHS ON THE MERITS?

QUESTION(S) PRESENTED

9. WHEN THE NINTH CIRCUIT JUDGES/JUSTICES MADE THE DECISION TO CLOSE PETITIONER'S PETITION FOR WRIT OF MANDAMUS. DID THE NINTH CIRCUIT HAVE JURISDICTION TO ORDER ITS CLERK TO SERVE UPON THE DISTRICT COURT'S CLERK PETITIONER'S PETITION FOR WRIT OF MANDAMUS, INSTRUCTING THE DISTRICT COURT CLERK TO FILE PETITIONER'S CLOSED PETITION FOR WRIT OF MANDAMUS AS A "NOTICE OF APPEAL?"
10. DID THE DISTRICT COURT HAVE PROPER JURISDICTION OVER PETITIONER WRIT OF MANDAMUS AFTER THE NINTH CIRCUIT CLOSED MANDAMUS PROCEEDINGS?
11. WHAT CONSTITUTES FRAUD ON THE COURT?
12. WHAT IS THE PROPER PROCEDURE BY WHICH ALL PETITIONS FOR WRIT OF MANDAMUS ARE TO BE PROCESSED?
13. WHEN THE DISTRICT COURT CLERK FILED A NOTICE OF APPEAL ON BEHALF OF OR IN COMPLIANCE WITH ORDER FROM THE NINTH CIRCUIT, THE DISTRICT COURT CONSTRUED THE "NOTICE OF APPEAL" AS A CERTIFICATE OF APPEALABILITY AND FORWARDED TO THE CLERK OF THE NINTH CIRCUIT COURT OF APPEALS WHICH PROCESSED THE "CERTIFICATE OF APPEALABILITY" WHICH WAS ASSIGNED TO TWO JUDGES/JUSTICES WHICH DENIED SAID CERTIFICATE UNDER CONGRESS' HABEAS CORPUS REFORM ACT. IS THIS IN COMPLIANCE WITH CONGRESS' ENACTMENT OF THE FEDERAL MANDAMUS ACT?
14. IN MARBURY VERSES MADISON, THIS COURT ANNOUNCED, THOSE WHO APPLY THE RULE TO PARTICULAR CASES, MUST OF NECESSITY, EXPOUND AND INTERPRET THAT RULE, IF TWO LAWS CONFLICT WITH EACH OTHER. THE COURT MUST DECIDE THE OPERATION OF EACH. DOES THIS ANNOUNCEMENT YET STAND TO DATE?
15. CAN A COURT RULE UPON AN APPLICATION UPON WHICH THE APPLICANT NEVER FILED?

## LIST OF PARTIES

[X] ALL PARTIES DO NOT APPEAR IN THE CAPTION OF THE CASE ON THE COVER PAGE. A LIST OF ALL PARTIES TO THE PROCEEDING IN THE COURT WHOSE JUDGMENT IS THE SUBJECT OF THIS PETITION IS AS FOLLOWS:

CIRCUIT JUDGE LEAVY

CIRCUIT JUDGE FARRIS

CHIEF JUDGE OF THE EASTERN DISTRICT LAWRENCE J. O'NEILL

EASTERN DISTRICT JUDGE NUNLEY

EASTERN DISTRICT JUDGE MUELLER

EASTERN DISTRICT MAGISTRATE JUDGE HOLLOW

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(iiii)

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR MANDAMUS/PROHIBITION

Petitioner respectfully prays that a Petition for Mandamus/Prohibition issue to review the judgment below.

OPINIONS BELOW

FOR CASES FROM FEDERAL COURTS:

THE OPINION OF THE UNITED STATES COURTS OF APPEALS APPEARS AT APPENDIX D TO THE MANDAMUS/PROHIBITION AND IS

REPORTED AT \_\_\_\_\_; OR,  
 HAS BEEN DESIGNATED FOR PUBLICATION BUT IS NOT YET REPORTED; OR,  
 IS UNPUBLISHED.

THE OPINION OF THE UNITED STATES DISTRICT COURT APPEARS AT APPENDIX H TO THE MANDAMUS/PROHIBITION AND IS

REPORTED AT \_\_\_\_\_; OR,  
 HAS BEEN DESIGNATED FOR PUBLICATION BUT IS NOT YET REPORTED; OR,  
 IS UNPUBLISHED.

## JURISDICTION

[XX] FOR CASES FROM FEDERAL COURTS:

THE DATE ON WHICH THE UNITED STATES COURT OF APPEALS DECIDED  
MY CASE WAS JUNE 27, 2018 .

[ ] NO PETITION FOR REHEARING WAS TIMELY FILED IN MY CASE.

A TIMELY PETITION FOR REHEARING WAS DENIED BY THE UNITED STATES COURT OF APPEALS ON THE FOLLOWING DATE: N/A, AND A COPY OF THE ORDER DENYING REHEARING APPEARS AT APPENDIX D.

[ ] AN EXTENSION OF TIME TO FILE THE PETITION FOR MANDAMUS/  
PROHIBITION WAS GRANTED TO AND INCLUDING (DATE) ON (DATE) IN APPLICATION  
No. A

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FOURTEENTH AMENDMENT

SIX AMENDMENT

VIOLATIONS OF CONGRESS INACTMENT OF MOTION PRACTICE ACT.

VIOLETION OF FEDERAL MANDAMUS ACT.

VIOLETION OF OATH OF OFFICE

## STATEMENT OF THE CASE

PETITIONER FILED A MOTION TO VACATE JUDGMENT IN THE DISTRICT COURT. THE DISTRICT COURT ORDERED PETITIONER TO CHANGE, OR AMEND TO VACATE JUDGMENT, TO A PETITION FOR WRIT OF HABEAS CORPUS.

PETITIONER FILED MOTION IN OPPOSITION THERE TO, INCLUDING BUT NOT LIMITED TO; DISQUALIFICATION, REQUEST FOR JUDICIAL NOTICE, OBJECTIONS THERE TO; AFFIDAVIT OF TRUTH; MOTION TO VACATE JUDGMENT RULE 60(d) (3). [See APPENDIX H ]

PETITIONER FILED A MANDAMUS ACT TO UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT FOR VIOLATIONS OF OATH OF OFFICE, IN VIOLATION OF ACTS OF CONGRESS.

IN RESPONSE TO PETITIONER FILINGS FOR PETITION OF WRIT OF MANDAMUS. THE NINTH CIRCUIT CLOSED THE PETITION FOR WRIT OF MANDAMUS, AFTER PETITIONER COMPLIED WITH THE ORDER OF PAYMENT OF PETITION OF WRIT OF MANDAMUS, ORDERS NINTH CIRCUIT CLERK TO SEND PETITION BACK DOWN TO THE DISTRICT COURT AS A NOTICE OF APPEAL.

DISTRICT COURT CONVERTS NOTICE OF APPEAL INTO A CERTIFICATE OF APPEALABILITY, THE DISTRICT COURT DENIED CERTIFICATE OF APPEALABILITY FORWARDED THE DENIAL OF CERTIFICATE OF APPEALABILITY TO THE NINTH CIRCUIT CLERK. THEREFROM, THE NINTH CIRCUIT DENIED THE CERTIFICATE OF APPEALABILITY. [See APPENDIX M ]

## REASONS FOR GRANTING THE MANDAMUS/PROHIBITION

PETITIONER SOUGHT A WRIT OF MANDAMUS IN THE NINTH CIRCUIT TO THE HONORABLE JUDGES AND JUSTICES OF THE UNITED STATES COURT OF APPEALS BASED ON ALLEGATIONS OF VIOLATIONS OF CONGRESSIONAL ENACTMENT OF ITS MOTION PRACTICE ACT, IN THAT, JUDGES O'NEILL, MUELLER, NUNELY, AND HOLLOWES KNEW THAT PETITIONER DID NOT [Case No. 2:17-cv-02444 Dated 11-20-17] SERVE OR FILE [Compare: Houston V. Lack, 487 U.S. 266 (1988)] A PETITION FOR WRIT OF HABEAS CORPUS ORDERED PETITIONER TO AMEND PETITION WITHIN 45 DAYS AFTER THE ISSUANCE OF THIS ORDER, SUBJECT TO SANCTIONS A PETITION WHICH PETITIONER NOT ONLY FOREWARNED BUT THE COURT AGREE WOULD SUBJECT OR CAUSE TO BE SUMMARY DISMISSAL VOID OF GRANT OF APPLICATION TO THE NINTH CIRCUIT, RESPONDENTS CANBY, WARDLAW, AND RAWLINSON PERMISSION TO FILE A SECOND OR SUCCESSIVE PETITION IN THE DISTRICT COURT UNDER THE JURISDICTION OF CHIEF JUDGE O'NEILL, DISTRICT COURT JUDGES NUNELY AND MUELLER AND MAGISTRATE JUDGE HOLLOWES.

NEVERTHELESS, MAGISTRATE HOLLOWES EMPLOYED DISTRICT JUDGE NUNELY TO DISMISS A PETITION FOR WRIT OF HABEAS CORPUS AS SUCCESSIVE, KNOWING PETITIONER "NEVER" FILED WITH THE DISTRICT COURT SUCH A PETITION TO WHICH DISTRICT COURT JUDGE MUELLER KNOWING A MOTION TO VACATE JUDGMENT HAD BEEN ADDRESSED TO HER, ELECTED TO REMOVE FROM HER MOTION'S CALENDAR A MOTION CHALLENGING A STATE COURT JUDGMENT (DECISION) IN VIOLATION OF THE CONSTITUTION, LAWS AND TREATIES OF THE UNITED STATES TO BE ASSESSED BY A MAGISTRATE JUDGE TO WHICH THE

REASONS FOR GRANTING THE MANDAMUS/PROHIBITION CONT. 2

CHIEF JUDGE FAILED TO COMPLY WITH THE MANDATE OF CONGRESS' ENACTMENT OF ITS JUDICIAL NOTICE PROCEDURE, CAUSING PETITIONER TO SEEK THE ASSISTANCE OF AND UNDER THE APPELLATE JURISDICTION FOR A REMEDY PURSUANT TO CONGRESS' ENACTMENT OF THE FEDERAL MANDAMUS ACT, TO WHICH, INSTEAD OF MAINTAINING COMPLIANCE THEREWITH, RESPONDENTS CANBY, WARDLAW, AND RAWLINSON MADE AN INDEPENDENT DECISION TO (ALTHOUGH) DENY THE PETITION AND CLOSED THE CASE UNDER THE MANDAMUS PETITION CASE NUMBER 18-70898, ORDERED ITS CLERK TO EMPLOY THE DISTRICT COURT'S CLERK TO ENTER UPON ITS DOCKET A NOTICE OF APPEAL (ON PETITIONER'S BEHALF) TO REFLECT THE DATE HANDED OVER TO PRISON OFFICIALS PURSUANT TO HOUSTON V. LACK TO WHICH THE DISTRICT COURT COURT DID SO PURSUANT TO TITLE 28 SECTION 2254 OF THE UNITED STATES CODE GOVERNING PETITIONS FOR WRIT OF HABEAS CORPUS WHICH ARE AUTOMATICALLY CONSTITUTE REQUESTS FOR CERTIFICATE OF APPEALABILITY SUBJECT TO AUTOMATIC DENIAL WHICH BASED ON THE FACTS, EVIDENCE AND LAW GOVERNING THE PETITION FOR WRIT OF MANDAMUS REMAIN UNPROCESSED AND YET "AVAILABLE" IN THIS COURT, BASED ON THE LOWER COURTS REFUSAL TO MAINTAIN SCOPE OF THEIR JUDICIAL DUTIES, TO WHICH ALL OFFICERS OF THE UNITED STATES JUDICIAL DEPARTMENT ARE UNDER AN OATH OF OFFICE NOT TO BREACH THEIR CONTRACT TO WIT "TO SAY WHAT THE LAW IS," AND NOT WHICH AS ANNOUNCED IN THIS COURT, APPLY THE RULES TO A PARTICULAR CASE, TO WHICH IN THIS CASE, CONGRESS' ENACTMENT OF ITS MOTION PRACTICE ACT PURSUANT TO CODE OF CIVIL PROCEDURE RULES 7-11

REASONS FOR GRANTING THE MANDAMUS/PROHIBITION CONT. 3

"MOTION TO VACATE JUDGMENT CODIFIED AT FEDERAL RULES OF CIVIL PROCEDURE RULE 60(d)(3) AND APPLICATION FOR AN EXTRAORDINARY WRIT. [FRAP Rule 21. Title V. Extraordinary Writ] CONTRAY TO MARBURY V. MADISON, 5 US (1 Cranch) 137, 177-78.

THIS COURT MADE CLEAR [See Marbury V. madison, 5 US (1 Cranch) 137, 169] TO RENDER MANDAMUS A PROPER REMEDY, THE OFFICER TO WHOM IT IS DIRECTED MUST BE ONE TO WHOM, ON LEGAL PRINCIPLES, SUCH A WRIT MAY BE DIRECTED, AND THE PERSON APPLYING FOR IT MUST BE WITHOUT ANY SPECIFIC AND LEGAL REMEDY.

RECORDS MAINTAINED BY THE STATE AND FEDERAL GOVERNMENT SHOW FROM THE BEGINING OF THE EVENTS WHICH LED TO PETITIONER'S ARREST TO AND INCLUDING THOSE LEADING UP TO THIS APPLICATION IN THIS COURT FOR THE EXTRAORDINARY REMEDY OF THE FEDERAL MANDAMUS ACT. PETITIONER MAINTAINED A POSITION OF INNOCENCE WHICH BASED ON PROSECUTIONS ALLEGED VICTIMS/WITNESSES TESTIMONY WHICH DISCLOSED TO OFFICERS OF THE UNITED STATES JUDICIAL DEPARTMENT NOT TO BE ABLE TO POSITIVELY IDENTIFY HIM AS ONE OF THE THREE INDIVIDUALS ALLEGEDLY ARRESTED FOR COMMITTING THE OFFENSE ALLEGED IN THE INFORMATION/FELONY COMPLAINT.

OTHER RECORDS SUCH AS THE ISSUANCE OF A SEARCH WARRANT WHICH UPON A PROCEEDING AUTHORIZED BY LAW TO QUESTION ITS AUTHENTICATION YEILD "DIRECT EVIDENCE" RELEVANT TO WHICH TO CONCLUDE NO REASONABLE

REASONS FOR GRANTING THE MANDAMUS/PROHIBITION CONT. 4

FACTFINDER WOULD HAD FOUND WANT FOR ACTIVATION OF SIXTH AMENDMENT TO BE APPLICABLE TO WHICH EVIDENCE SHOWING THE PEOPLE OF THE STATE OF CALIFORNIA REPRESENTED BY THE DISTRICT ATTORNEY OF SACRAMENTO COUNTY JAN SCULLY, SACRAMENTO POLICE DEPARTMENT, AND STATE COURT JUDGE MULLEN ATTEMPTS TO FORGE LEGAL DOCUMENTS SUCH AS POLICE DISPATCH LOG AND A SEARCH WARRANT WHICH HAD BEEN ALTERED SEVEN MINUTES AFTER SACRAMENTO POLICE OFFICERS HAD ALREADY ENTERED UPON PETITIONER'S PRIVATE PROPERTY TO WHICH TO CONDUCT AN ALLEGED PROTECTIVE SWEEP WHICH DURING OFFICIAL EXAMINATION, INVESTIGATION BY A FORENSIC EXPERT DECLARING JUDGE MULLEN'S PRESENTED MISREPRESENTATION OF THE TRUTH AND CONCEALED MATERIAL EVIDENCE TO WHICH SUBJECT AND CONTINUE TO CAUSE PETITIONER'S TO BE SUBJECTED TO UNJUSTIFIED LOSS OF HIS LIBERTY TO WHICH RESULTED IN THE IMPOSITION OF A SENTENCE EQUAL TO THAT OF DEATH AND TO WHICH DESPITE ALL OF THE COMPLAINTS FROM HABEAS CORPUS TO WRIT OF MANDAMUS AND DECLARATORY RELIEF.

THE UNITED STATES JUDICIAL DEPARTMENT REFUSE TO MAINTAIN COMPLIANCE WITH THE DECISIONS HANDED DOWN FROM THIS COURT AS ANNOUNCED IN ITS LANDMARK DECISION [See *Marbury*, 5 US (1 Cranch) 137, at 177-178 (original Citation)].

"IT IS EMPHATICALLY THE PROVINCE AND DUTY OF THE JUDICIAL DEPARTMENT" TO SAY WHAT THE LAW IS. THE DECISION OF THE UNITED STATES COURT OF APPEALS FRO THE NINTH CIRCUIT UNDER RESPONDENTS

REASONS FOR GRANTING THE MANDAMUS/PROHIBITION CONT. 5

CANBY, WARDLAW, AND RAWLINSON ARE CONTRARY TO CLEARLY ESTABLISHED FEDERAL LAW AS DETERMINED BY THIS COURT.

BY NOT FILING PETITIONER'S PETITION FOR WRIT OF MANDAMUS AND DECLARATORY RELIEF TO WHICH RESPONDENTS DETERMINED PETITIONER DID NOT DEMONSTRATE THAT HIS CASE AGAINST RESPONDENTS O'NEILL, MUELLER, NUNELY, AND HOLLOWES WARRANTED THE EXTRAORDINARY REMEDY OF MANDAMUS IN THE NINTH CIRCUIT TO WHICH RESPONDENTS CANBY, WARDLAW, AND RAWLINSON CLOSED MANDAMUS MANDAMUS PROCEEDING VOID OF MAINTAINING COMPLIANCE WITH PROCEDURAL PROCESS OF THE MANDAMUS ACT PURSUANT TO THE DECISION OF THIS COURT, TO REQUIRE RESPONDENTS (OFFICERS TO WHICH A WRIT WAS DIRECTED) TO EITHER SHOW CAUSE OR OTHERWISE, TO DO THE PARTICULAR THING, OR SHOW CAUSE WHY THEY SHOULD NOT DO IT, BASED ON THE FACT THAT PETITIONER'S LAST KNOWN REMEDY AT LAW TO WHICH TO COMPEL COMPLIANCE WITH ACTS OF CONGRESS AUTHORIZED TO ACCESS A FORUM TO ASCERTAIN TRUTH HAD BEEN BASED ON THE MOTION PRACTICE ACT, TO WHICH TO MOVE THE COURT TO VACATE JUDGMENT IN VIOLATION OF THE CONSTITUTION, LAWS AND TREATIES OF THE UNITED STATES.

THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT LACK SUBJECT MATTER JURISDICTION REQUIRING JURISDICTION OF THIS COURT "TO SAY WHAT THE LAW IS" IN THIS EXTRAORDINARY CASE, TO WHICH NO OTHER REMEDY AT LAW IS AVAILABLE TO COMPEL COMPLIANCE WITH THE

REASONS FOR GRANTING THE MANDAMUS/PROHIBITION CONT. 6

SUPREME LAWS OF THE LAND.

PITITIONER SOUGHT THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION GUARANTEE, TO PETITION GOVERNMENT FOR REDRESS OF GRIEVANCE VIA ACCESS TO THE COURTS UPON APPLICATION FOR PETITION FOR WRIT OF MANDAMUS ENACTED BY AN ACT OF CONGRESS, TO COMPEL THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA TO COME INTO COMPLETE COMPLIANCE WITH CONGRESS' ENACTMENT OF ITS "MOTION PRACTICE ACT" GOVERNING "MOTIONS TO VACATE JUDGMENT" TO WHICH RECORDS MAINTAINED BY THE LOWER COURTS SHOW THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA NOT ONLY CHANGED, OR OTHERWISE, CONVERTED PETITIONER'S MOTIONS TO VACATE JUDGMENT TO PETITION FOR WRIT OF HABEAS CORPUS, KNOWING NO PRIOR APPLICATION FOR "CERTIFICATE OF APPEALABILITY HAD BEEN SOUGHT AND OR GRANTED PERMITTING THE DISTRICT COURT TO EXERSIZE JURISDICTION.

NONETHELESS, ADJUDGED PETITIONER'S MOTION TO VACATE JUDGMENT UNDER THE JURISDICTION OF CONGRESS' HABEAS CORPUS REFORM ACT AS A SUCCESSIVE PETITION KNOWING NO RECORD MAINTAIN BY THE DISTRICT SHOW PETITIONER HAD EVER FILED FOR AN APPLICATION FOR HABEAS RELIEF.

THE NINTH CIRCUIT, NONETHELESS, ORDERED PETITIONER TO PAY FILING FEE IN THE AMOUNT OF \$505 DOLLARS FOR/IN ORDER TO BRING HIS APPLICATION FOR PETITION FOR WRIT OF MANDAMUS UNDER JURISDICTION OF THE NINTH CIRCUIT AND AFTER PETITIONER HAD PAID IN FULL THE

REASONS FOR GRANTING THE MANDAMUS/PROHIBITION CONT. 7

\$505 DOLLARS FILING FEE.

THE NINTH CIRCUIT CLOSED PETITIONER'S PETITION FOR WRIT OF MANDAMUS VIOD OF MAINTAINING COMPLIANCE WITH CONGRESS' ENACTMENT OF THE FEDERAL MANDAMUS INCLUDING BUT NOT LIMITED TO THE PROCEDURES BY WHICH ALL APPLICATION FOR RELIEF SOUGHT BY MANDAMUS ARE TO BE PROCESSED.

**CONCLUSION**

PLEASE SEE ATTACHED MANDAMUS/PROHIBITION PGS. 26,27

Andre Rene Scott  
Andre Rene Scott, Without Prejudice UCC Code

11.18-18

Andre Rene Scott  
Andre Rene Scott, Without Prejudice UCC Code

3.31.19

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

MAR 30 2018

MOLLY C. DWYER, CLERK,  
U.S. COURT OF APPEALS

In re: ANDRE RENE SCOTT,

ANDRE RENE SCOTT,  
Petitioner,

v.

UNITED STATES DISTRICT  
COURT FOR THE EASTERN  
DISTRICT OF CALIFORNIA,  
SACRAMENTO,

Respondent,  
STUART SHERMAN, Warden,  
Real Party in Interest.

No. 18-70898

D.C. No. 2:17-cv-02444-TLN-GGH  
U.S. District Court for Eastern  
California, Sacramento

**ORDER**

A review of this court's docket reflects that the filing and docketing fees for this petition remain due. Within 21 days after the date of this order, petitioner shall pay to the district court the \$505.00 filing and docketing fees for this appeal and file in this court proof of such payment or file in this court a motion to proceed in forma pauperis.

The filing of a motion to proceed in forma pauperis will automatically stay the briefing schedule under Ninth Circuit Rule 27-11.

The Clerk shall serve a Form 4 financial affidavit on petitioner.

If petitioner fails to comply with this order, this petition will be dismissed automatically by the Clerk for failure to prosecute. *See* 9th Cir. R. 42-1.

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: Marc Eshoo  
Deputy Clerk  
Ninth Circuit Rule 27-7