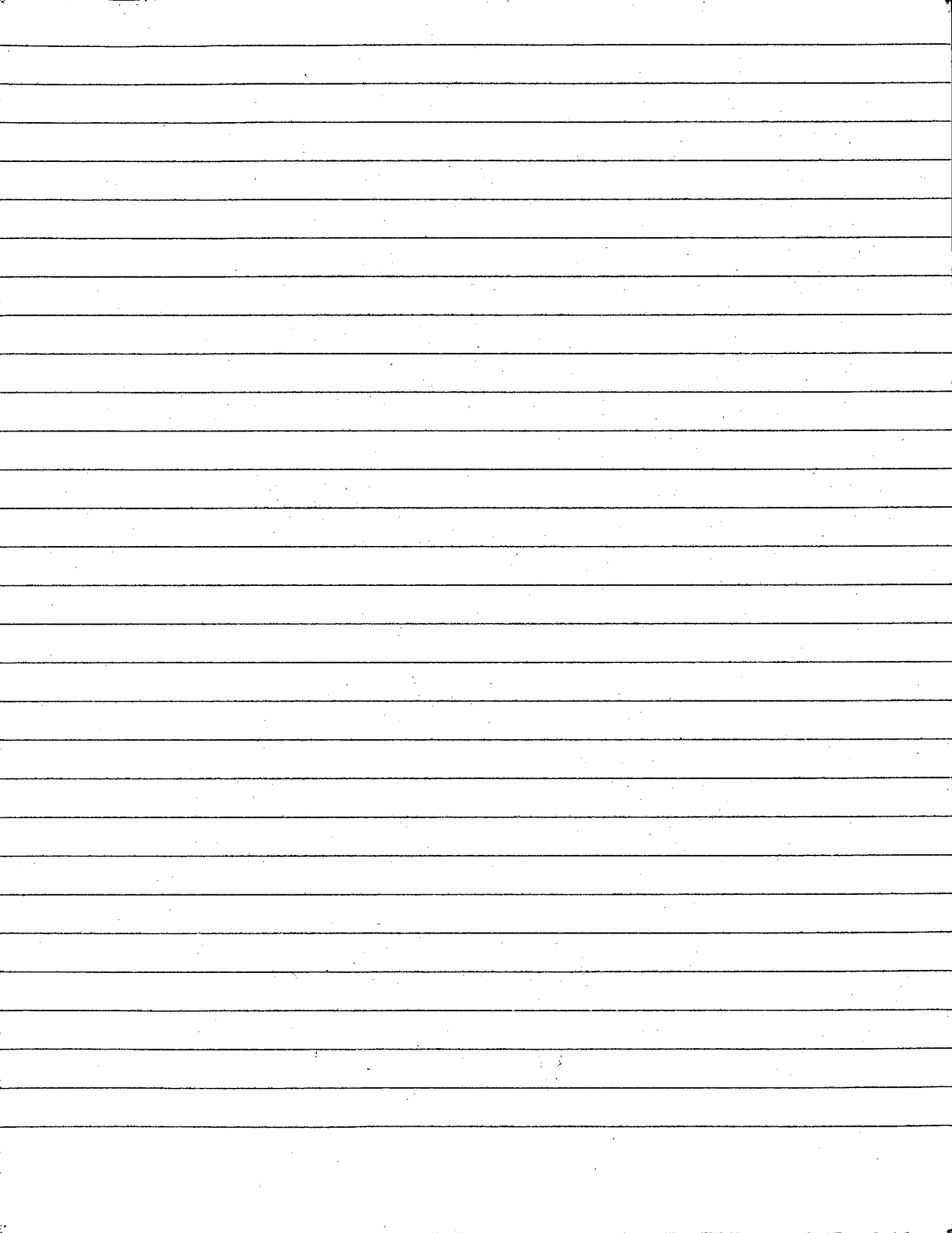


U.S. Court of Appeals
Orders

Appendix A



11

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Appendix ONE
FILED

DEC 24 2019

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

THEODORE C. SHOVE,

Petitioner-Appellant,

v.

RON DAVIS, Warden,

Respondent-Appellee.

No. 19-56223

D.C. No. 2:15-cv-02010-R
Central District of California,
Los Angeles

ORDER

Before: THOMAS, Chief Judge, BERZON and BRESS, Circuit Judges.

This court has reviewed the notice of appeal filed October 9, 2019 in the above-referenced district court docket pursuant to the pre-filing review order entered in docket No. 96-80069. Because the appeal is so insubstantial as to not warrant further review, it shall not be permitted to proceed. *See In re Thomas*, 508 F.3d 1225 (9th Cir. 2007). Appeal No. 19-56223 is therefore dismissed.

This order, served on the district court for the Central District of California, shall constitute the mandate of this court.

No motions for reconsideration, rehearing, clarification, stay of the mandate, or any other submissions shall be filed or entertained.

DISMISSED.

Death Penalty

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THEODORE SHOVE,

Petitioner,

v.

RON DAVIS, Warden
California State Prison at San
Quentin,

Respondent.

Case No. CV 15-2010 R

ORDER DENYING AND
DISMISSING PETITION FOR
WRIT OF HABEAS CORPUS

DEATH PENALTY CASE

I. BACKGROUND

Theodore Shove is a serial habeas and civil rights litigant in this and other federal courts within this Circuit. Though this Court has repeatedly dismissed his premature petitions on grounds firmly rooted in established federal law¹, and though the Court of Appeals has repeatedly affirmed those dismissals,² Mr. Shove perseveratively continues to present premature petitions for writs of habeas corpus recasting his previously rejected arguments in new terms. The present petition is no different and for the following reasons it, like all of Mr. Shove's prior filings, must be dismissed.

¹ See District Court Cases: CV 08-7126 R; CV 10-4556 R; CV 12-2194 R; CV 13-1475 R

² See Ninth Circuit Court of Appeals cases: 09-55013; 10-56354; 96-80069; 13-56448

1 **II. DISCUSSION**

2 On March 18, 2015 Mr. Shove filed a document entitled Writ of Habeas
3 Corpus Pursuant to 28 U.S.C. § 2254(b)(1)ii) and 28 U.S.C. § 2241(c)(3). Mr.
4 Shove complains of unlawful imprisonment, involuntary servitude, and that he is
5 being held in violation of the federal and California State constitutions as well as
6 federal laws and treaties. (Docket No. 1.) These are precisely the same issues that
7 Mr. Shove has raised in each of his prior petitions which have resulted in this
8 Court denying and dismissing them. Each of those dismissals has in turn been
9 affirmed by the Ninth Circuit.

10 A judgment of death was entered against Mr. Shove on March 13, 2008.³
11 Counsel on direct appeal was appointed for him on January 8, 2013. From that
12 date until the present, Petitioner has sought and been granted ten extensions of time
13 to file his opening brief on direct appeal. Based on the Court's examination of the
14 state court docket, and the representations made by his counsel as they appear
15 there, Mr. Shove's opening brief on appeal may not be filed until sometime in
16 2017 at the earliest. Petitioner has filed two pro se habeas corpus petitions in the
17 state court since judgment was entered against him. Based on this Court's
18 examination of the dockets in those cases, it appears that Mr. Shove has made the
19 same baseless and/or untimely arguments in that forum as he has in the federal
20 courts.⁴

21 This Court, as well as the Court of Appeals, has repeatedly explained to Mr.
22 Shove that his attempts at obtaining federal habeas relief at this juncture are either
23 premature or based on non-cognizable claims. This case is no different. Mr.
24 Shove has had counsel appointed for him on direct review and by all accounts
25

26 ³ The docket for Mr. Shove's direct appeal is found at
http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=1893587&doc_no=S161909

27 ⁴ The dockets of Mr. Shoves pro se habeas cases can be found at
28 http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=1979984&doc_no=S193252 and
http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=1895771&doc_no=S164093

1 counsel is working diligently to prepare and file an appellate brief on his behalf.
2 As also discussed repeatedly in prior orders, the policies of the California Supreme
3 Court establish procedures for the appointment of state habeas counsel that this
4 Court neither can nor would override considering that Mr. Shove is receiving the
5 process that he is constitutionally due.

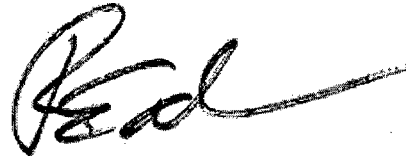
6 Finally, Mr. Shove, through a series of "questions presented" in his present
7 filing, asks this Court to make a determination on matters that, pursuant to well
8 established federal law, either must be first brought before the state court for
9 resolution or are not cognizable on federal habeas review.⁵

10 **III. CONCLUSION**

11 For the foregoing reasons, as well as the reasons stated in this Court's prior
12 orders, this matter is hereby **DISMISSED**. All pending motions are **DENIED** as
13 moot. The Court, on its own motion, deems Mr. Shove to have requested a
14 certificate of appealability. The Court **DENIES** that request for both for the lack
15 of a substantial showing of the violation of a constitutional right and because this
16 matter has been prematurely filed thereby barring this Court's consideration of its
17 merits. No motions for reconsideration, rehearing, or clarification, or any other
18 submissions regarding this order shall be filed or entertained. Finally,

19 **IT IS SO ORDERED.**

20
21 Dated: May 11, 2015



22 MANUEL L. REAL
23 UNITED STATES DISTRICT JUDGE
24
25
26

27 ⁵ The questions relate to search and seizure, the confrontation clause, the right to habeas review, the right to know
28 and challenge the evidence against him, the right to appellate review, due process, and equal protection. See Docket
No. 1, page 2.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Death Penalty

CIVIL MINUTES – GENERAL

Case No. CV-15-2010-R Date: October 10, 2018

Title THEODORE SHOVE v. WARDEN RON DAVIS

Present: The Honorable: MANUEL L. REAL, U.S. DISTRICT JUDGE

Christine Chung

Deputy Clerk

Not Present

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Not Present

Attorneys Present for Defendants:

Not Present

Proceedings: (IN CHAMBERS) ORDER RE CORRESPONDENCE FROM PETITIONER

The Court has previously rejected several documents for filing that had been submitted by Petitioner, Theodore Shove, because the documents did not comply with the Pre-filing Review Order previously entered by the Court. (See Docket Nos. 10, 13, 14, 21, 23-25.) Petitioner has again submitted similar voluminous documents in four separate mailings. None of these new mailings comply with the Pre-filing Review Order.

The Court hereby rejects these documents for filing because they do not comply with the Court's previously entered Pre-filing Review Order. Moreover, to the extent portions of these documents reflect "notice of appeal" and purport to be request for a certificate of appealability, the Court denies the same for reasons already given in prior orders. (See Docket Nos. 23-25.) The claims and complaints contained in these documents are not materially different from every other petition or other filing that Petitioner has submitted to this Court. Petitioner has not yet exhausted his state court remedies and therefore cannot demonstrate that he has made a substantial showing of a state court denial of his constitutional rights. For this reason, and for all for the reasons set forth in this Court's prior orders denying and dismissing Petitioner's petitions for habeas corpus relief, the Court declines to issue a certificate of appealability. The Clerk of Court shall return the documents most recently submitted by Petitioner together with a copy of this order.

Initials of Preparer

 :00
 es