

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Vinh The Phang v. Roberto A. Arias

Phang · No. 25-cv-03161-KAW (PR) · Decided September 24, 2025

SUMMARY

The United States District Court for the Northern District of California issued an order to show cause in a state prisoner’s 28 U.S.C. § 2254 habeas petition. The order directs service, establishes deadlines for an answer or motion to dismiss and any traverse, addresses the petitioner’s responsibility to maintain a current address, and substitutes Roberto A. Arias as respondent under Federal Rule of Civil Procedure 25(d).

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Kandis A. Westmore
JURISDICTION	United States District Court for the Northern District of California
DECIDED	September 24, 2025
DOCKET	25-cv-03161-KAW (PR)
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court issued an order to show cause, directing the respondent to answer or file a motion to dismiss on procedural grounds.
STANDARD OF REVIEW	At the preliminary screening stage under Rule 4 of the Rules Governing Section 2254 Cases, the court determines whether the petition is plainly meritless on its face.
PRECEDENTIAL VALUE	unpublished
PARTIES	Vinh The Phang v. Roberto A. Arias, Warden

TOPICS

- federal habeas corpus
- post-conviction relief
- motions to dismiss
- service of process
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the § 2254 petition should be dismissed at the preliminary screening stage as facially meritless.
2. What procedural steps and response deadlines should govern the respondent's answer or motion to dismiss.
3. Whether Roberto A. Arias should be substituted as respondent under Federal Rule of Civil Procedure 25(d).

HOLDINGS

1. Because the petition did not appear facially meritless, the court issued an order to show cause rather than dismissing the petition at screening.
2. Roberto A. Arias was substituted as respondent pursuant to Federal Rule of Civil Procedure 25(d).

KEY QUOTATIONS

“It does not appear from the face of the petition that it is without merit.” (at 1)

FACTUAL BACKGROUND

Vinh The Phang is a state prisoner who filed a federal petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition was accompanied by exhibits, and petitioner paid the full filing fee. The court found that the petition did not appear facially meritless and ordered the respondent to respond.

PROCEDURAL HISTORY

Petitioner filed a state habeas petition in federal district court and paid the filing fee. The court determined that the petition did not appear facially meritless and issued an order requiring service, a response, production of relevant state records, and a possible traverse. The court also directed substitution of Roberto A. Arias as respondent under Federal Rule of Civil Procedure 25(d).

DISPOSITION

other

CASES CITED

- Martinez v. Johnson, 104 F.3d 769, 772 (5th Cir. 1997)

OPINION

1 2 3 4 5 6 UNITED STATES DISTRICT COURT 7 NORTHERN DISTRICT OF CALIFORNIA
8 VINH THE PHANG, 9 Case No. 25-cv-03161-KAW (PR) Petitioner, 10 v. ORDER TO SHOW
CAUSE 11 ROBERTO A. ARIAS, Warden, 12 Respondent. 13 14 Petitioner, a state prisoner, has

filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has paid the full filing fee.

Pursuant to 28 U.S.C. § 636(c), with written consent of all parties, a magistrate judge may conduct all proceedings in a case, including entry of judgment. Appeal will be directly to the United States Court of Appeals for the Ninth Circuit. See 28 U.S.C. § 636(c)(3). It does not appear from the face of the petition that it is without merit. Good cause appearing, the Court hereby issues the following orders:

The Clerk of the Court shall serve a copy of this order upon Respondent and Respondent's attorney, the Attorney General of the State of California, at the following email addresses: SFAWTParalegals@doj.ca.gov and docketingsfawt@doj.ca.gov.

The petition and the exhibits thereto are available via the Electronic Case Filing System for the Northern District of California. The Clerk shall serve by mail a copy of this order on Petitioner. Within twenty-eight (28) days of the issuance of this Order, Respondent shall complete and file the Magistrate Judge jurisdiction consent form to indicate whether Respondent consents or declines to proceed before the assigned Magistrate Judge.

Respondent is free to withhold consent without adverse consequences. If Respondent consents to a Magistrate Judge's jurisdiction, this case will be handled by the undersigned Magistrate Judge. If Respondent declines, the case will be reassigned to a District Judge. Whether Respondent consents or declines to proceed before the assigned Magistrate Judge, the parties shall abide by the briefing schedule below.

Respondent shall file with this Court and serve upon Petitioner, within sixty (60) days of the issuance of this Order, 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 issued. Respondent shall file with the Answer a copy of all portions of the relevant state records 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 sixty (60) days of his receipt of the Answer. Should Petitioner fail to do so, the petition will be deemed submitted and ready for decision sixty (60) days after the date Petitioner is served with Respondent's Answer.

Respondent may file with this Court and serve upon Petitioner, within sixty (60) days of the issuance of this Order, 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. If Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an opposition or statement of non-opposition to the motion within sixty (60) days of

23 receipt of the motion, and Respondent shall file with the Court and serve on Petitioner a reply
24 within fourteen (14) days of receipt of any opposition.

25 6. It is Petitioner's responsibility to prosecute this case. Petitioner must keep the 26 Court and
Respondent informed of any change of address and must comply with the Court's 27 orders in a
timely fashion. Pursuant to Northern District Local Rule 3-11 a party proceeding pro 1 address
specifying the new address. See L.R. 3-11(a).

The Court may dismiss a pro se action 2 || without prejudice when: (1) mail directed to the pro se
party by the Court has been returned to the 3 || Court as not deliverable, and (2) the Court fails to
receive within sixty days of this return a written 4 || communication from the pro se party
indicating a current address. See L.R. 3-11(b); see also 5 Martinez v. Johnson, 104 F.3d 769, 772
(Sth Cir.

1997) (Rule 41(b) applicable in habeas cases). 6 Petitioner must also serve on Respondent's
counsel all communications with the Court by 7 || mailing a true copy of the document to
Respondent's counsel. 8 7. Upon a showing of good cause, requests for a reasonable extension of
time will be 9 || granted provided they are filed on or before the deadline they seek to extend.

10 8. Roberto A. Arias shall be substituted as Respondent pursuant to Rule 25(d) of the 11 Federal
Rules of Civil Procedure. 12 IT IS SO ORDERED. 5 13 Dated: September 24, 2025 AWNDIS A.
WESTMORE 2 15 United States Magistrate Judge 16 18 19 20 21 22 23 24 25 26 27 28