

**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).

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 15 28 U.S.C. § 2254. He has paid the full
filing fee.

16 Pursuant to 28 U.S.C. § 636(c), with written consent of all parties, a magistrate judge may 17
conduct all proceedings in a case, including entry of judgment. Appeal will be directly to the 18
United States Court of Appeals for the Ninth Circuit. See 28 U.S.C. § 636(c)(3). 19 It does not
appear from the face of the petition that it is without merit. Good cause 20 appearing, the Court
hereby issues the following orders: 21 1.

The Clerk of the Court shall serve a copy of this order upon Respondent and 22 Respondent's
attorney, the Attorney General of the State of California, at the following email 23 addresses:
SFAWTParalegals@doj.ca.gov and docketingsfawt@doj.ca.gov.

The petition and 24 the exhibits thereto are available via the Electronic Case Filing System for the
Northern District of 25 California. The Clerk shall serve by mail a copy of this order on Petitioner.
26 2. Within twenty-eight (28) days of the issuance of this Order, Respondent shall 27 1 complete
and file the Magistrate Judge jurisdiction consent form to indicate whether Respondent 2 consents
or declines to proceed before the assigned Magistrate Judge.

Respondent is free to 3 withhold consent without adverse consequences. If Respondent consents
to a Magistrate Judge's 4 jurisdiction, this case will be handled by the undersigned Magistrate
Judge. If Respondent 5 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.

3. 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.

4. 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.

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

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

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

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

8. Roberto A. Arias shall be substituted as Respondent pursuant to Rule 25(d) of the Federal Rules of Civil Procedure. IT IS SO ORDERED. Dated: September 24, 2025 AWNDIS A. WESTMORE United States Magistrate Judge

