

FEDERAL HABEAS PROCEDURE
SOUTHERN DISTRICT OF CALIFORNIA

NONCAPITAL PETITION RECEIVED by Clerk's Office

PETITION FILED, given civil case number and assigned Magistrate Judge and District Judge from prisoner "deck"

Pro Se Law Clerk performs initial screening

If Petitioner moves to proceed IFP and does not have sufficient funds, moves to proceed IFP and has sufficient funds or fails to move to proceed IFP

If Petitioner pays \$5 filing fee

Pro Se Unit drafts order for District Judge's signature GRANTING IFP

Pro Se Unit drafts order for District Judge's signature DENYING IFP and DISMISSING case without prejudice and with leave to amend or DISMISSING case for failure to move IFP or pay the \$5 fee

Pro Se Law Clerks draft SUMMARY DISMISSAL Order for District Judge's signature (Rule 2, 4 or 9 of the rules following § 2254)

Pro Se Law Clerk drafts "ORDER REQUIRING RESPONSE TO PETITION" for Magistrate Judge's signature.

Pro Se Law Clerk or Magistrate Judge's law clerk drafts proposed REPORT & RECOMMENDATION (R&R) for assigned Magistrate Judge's signature (R&R details recommended disposition of case and sets due dates for objections to R&R and reply to objections)

OBJECTIONS FILED to R&R

NO OBJECTIONS FILED to R&R

Assigned District Judge's chambers reviews *de novo* those portions of R&R to which objections have been made. The judge may then accept, reject, or modify, in whole or in part, the R&R and render judgment, or recommit the matter to the assigned Magistrate with instructions. (If District Judge elects to adopt the R&R, judge issues: (1) an Order Adopting the R&R and (2) a Judgment)

Assigned District Judge may accept, reject, or modify, in whole or in part, the R&R and render judgment, or recommit the matter to the assigned Magistrate with instructions. (If District Judge adopts R&R, judge issues: (1) an Order Adopting R&R & (2) a Judgment)

GRANT WRIT

OR

DENY PETITION OR DISMISS PETITION WITH OR W/O PREJUDICE AND GRANT OR DENY CERTIFICATE OF APPEALABILITY ("COA")

OR