Case 4:06-cv-00409-Y Document 10 Filed 07/10/06 Page 1 of 2 PageID 174 IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS FORT WORTH DIVISION

BARTON RAY GAINES,	§	
Petitioner,	§	
	§	
v.	§	Civil Action No. 4:06-CV-0409-Y
	§	
NATHANIEL QUARTERMAN, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Institutions Division,	§	
Respondent.	§	

ORDER PERMITTING PROCEEDING IN THE DISTRICT COURT and ORDER TO SHOW CAUSE, NOTICE, AND INSTRUCTIONS TO PARTIES

It is ORDERED that the parties shall comply with the following directives and the clerk of Court shall take the action indicated below:

You will take notice that a Petition For Writ of Habeas Corpus By A Person In State Custody and supporting memorandum, numbered and styled as above, have been filed in this Court pursuant to the provisions of 28 U.S.C. §§ 2241, et seq. Pleadings and briefs are required or permitted as follows:

RESPONDENT'S ANSWER. Pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, Respondent is directed to file an answer, motion, or other response to this petition within 30 days of the date of this order, answering in accordance with Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts. Respondent shall raise by way of his answer, motion, or other response any appropriate defenses which Respondent wishes to have the Court consider, including, but not limited to, failure to exhaust available state remedies, untimely petition pursuant to 28 U.S.C. § 2244(d), a delayed or successive petition, or entitlement to judgment on any legal grounds.

REPLY. Pursuant to Rule 5(e) of the Rules Governing Section 2254 Cases, Petitioner may file a reply within 30 days from the date of service of Respondent's answer, motion, or other pleading.

BRIEFS. Briefs, as required or permitted by the provisions of this paragraph, should be submitted on letter size paper and should be double spaced. Each argument with supporting citations advanced in the brief should clearly specify the specific ground of the motion or numbered paragraph of the pleading it seeks to support or oppose. A copy of any brief must be served by mail on the opposing party or counsel, if the party is represented by counsel, and a certificate reflecting such service shall be included in the brief. Briefs are required or permitted as follows:

- 1. **Respondent's brief.** Respondent may file such brief as he may deem appropriate.
- 2. **Reply brief.** A reply brief is not required. However, in any case in which Respondent has filed a brief, a reply brief may be filed by Petitioner, should he wish to do so, within a period of 30 days following service of Respondent's brief. Each paragraph of such reply brief must specify the precise paragraph or part of Respondent's brief to which reply is being made, and must be limited to a reply to Respondent's argument. Under no circumstances will any statement or argument set forth in an original or reply brief be considered as a part of the pleadings so as to advance new grounds for relief or to supplement any grounds or supporting facts set out in the petition.

Case 4:06-cv-00409-Y Document 10 Filed 07/10/06 Page 2 of 2 PageID 175 In every case a copy of the petition and any order shall be served on the Respondent and the Attorney General, unless an agreement has been reached with the Attorney General providing for alternative means of service. A true copy of this Order shall be mailed to Petitioner or his attorney of record.

After docketing, and issuance of process, this action shall be referred to Magistrate Judge Charles Bleil for further proceedings and/or findings and recommendation.

SIGNED July 10, 2006.

/s/ Charles Bleil CHARLES BLEIL UNITED STATES MAGISTRATE JUDGE

¹Based upon communication with the Texas Attorney General's Office, this Court will not serve copies of the petition, attachments, and orders upon Director Douglas Dretke. Instead, copies of the petition, attachments, and orders will be served electronically upon the Texas Attorney General, counsel for Dretke, and will be directed to the attention of Elizabeth Goettert, Assistant Attorney General, Postconviction Litigation Division, P. O. Box 12548, Austin, TX 78711-2548. *See* FED. R. CIV. P. 5(b)(2)(D).