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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JOSE LUIS VALDOVINOS,

No. 2:14-CV-2481-MCE-CMK-P

Petitioner,

vs.

ORDER

J. LIZARRAGA,

Respondent.

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On January 20, 2016, following petitioner’s numerous failures to resolve the fee status for this case, the court issued findings and recommendations that the action be dismissed.

Petitioner then commenced a new action, Valdovinos v. Lizarraga, 2:16-CV-0209-KJN, challenging the same conviction as the instant action, and filed a completed application to proceed in forma pauperis in that action. Pursuant to the court’s March 1, 2016, order, petitioner’s filings in the 2016 action have been filed in the instant action and the 2016 action has been closed. Because petitioner has now satisfactorily resolved the fee status for the instant action, the January 20, 2016, findings and recommendations will be vacated.

1           Petitioner seeks leave to proceed in forma pauperis. Petitioner has submitted the  
2 affidavit required by 28 U.S.C. § 1915(a) showing that petitioner is unable to prepay fees and  
3 costs or give security therefor. The request will be granted.

4           This action proceeds on the second amended petition (Doc. 23), filed pursuant to  
5 the court's March 1, 2016, order in the now-closed 2016 action. The court has examined the  
6 second amended petition as required by Rule 4 of the Federal Rules Governing Section 2254  
7 Cases. It does not plainly appear from the petition and any attached exhibits that petitioner is not  
8 entitled to relief. See id. Respondent(s), therefore, will be directed to file a response to  
9 petitioner's petition. See id. If an answer to the petition is filed, such answer must comply with  
10 Rule 5 of the Federal Rules Governing Section 2254 Cases. Specifically, an answer shall be  
11 accompanied by any and all transcripts or other documents relevant to the determination of the  
12 issue(s) presented in the petition. See id. Failure to file a response within the time permitted by  
13 this order may result in the imposition of appropriate sanctions. See Local Rule 110.

14           Accordingly, IT IS HEREBY ORDERED that:

- 15           1.       The findings and recommendations issued on January 20, 2016, are hereby  
16 vacated;
- 17           2.       Petitioner's motion for leave to proceed in forma pauperis (Doc. 24) is  
18 granted;
- 19           3.       Respondent(s) shall file a response to petitioner's second amended petition  
20 within 60 days from the date of service of this order;
- 21           4.       Petitioner's traverse or reply (if an answer to the petition is filed), if any,  
22 or opposition or statement of non-opposition (if a motion in response to the petition is filed) shall  
23 be filed and served within 30 days of service of respondent's response; and

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1           5.       The Clerk of the Court shall serve a copy of this order, together with a  
2 copy of petitioner's second amended petition for a writ of habeas corpus and the court's Order re:  
3 Consent or Request for Reassignment on Michael Patrick Farrell, Senior Assistant Attorney  
4 General.

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6 DATED: June 8, 2016

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8 **CRAIG M. KELLISON**  
9 UNITED STATES MAGISTRATE JUDGE  
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