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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CARMEL MURPHY,  
Petitioner,  
v.  
WARDEN D.K. JOHNSON,  
Respondent.

No. 2:16-cv-0429 CKD P

ORDER AND  
FINDINGS AND RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 together with a request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Examination of the request to proceed in forma pauperis reveals that petitioner is unable to afford the costs of suit. Accordingly, the request for leave to proceed in forma pauperis will be granted. See 28 U.S.C. § 1915(a).

Under Rule 4 of the Rules Governing Section 2254 Cases, the court must review all petitions for writ of habeas corpus and summarily dismiss any petition if it is plain that the petitioner is not entitled to relief. The court has conducted that review.

Court records reveal that petitioner has previously filed a petition for a writ of habeas corpus attacking the conviction and sentence challenged in this case. See *Murphy v. Miller*, 2:11-cv-1523 JAM CMK P. Before petitioner can proceed with the instant successive petition, she must obtain authorization from United States Court of Appeals for the Ninth Circuit pursuant to

1 28 U.S.C. § 2244(b)(3). Because it does not appear that petitioner has obtained the required  
2 authorization, petitioner's habeas petition must be dismissed.

3 Accordingly, IT IS HERBY ORDERED that

- 4 1. Petitioner's request for leave to proceed in forma pauperis (ECF No. 2) is granted; and  
5 2. The Clerk of the Court is directed to assign a district court judge to this case.

6 IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice.

7 These findings and recommendations are submitted to the United States District Judge  
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
9 after being served with these findings and recommendations, petitioner may file written  
10 objections with the court. The document should be captioned "Objections to Magistrate Judge's  
11 Findings and Recommendations." Petitioner is advised that failure to file objections within the  
12 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951  
13 F.2d 1153 (9th Cir. 1991).

14 Dated: March 4, 2016

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16 CAROLYN K. DELANEY  
17 UNITED STATES MAGISTRATE JUDGE

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