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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

AARON LYNDAL COOPER,

Petitioner/Plaintiff,

vs.

JEANNA WOODFORD, et al.,

Respondents/Defendants.

CASE NO. 1:10-cv-01124-OWW-SMS (PC)

ORDER STRIKING UNSIGNED PETITION
AND MOTION FOR APPOINTMENT OF
COUNSEL

(Docs. 1 and 2)

ORDER DIRECTING CLERK'S OFFICE TO
SEND COOPER A HABEAS PETITION, A
CIVIL RIGHTS COMPLAINT, AND AN
APPLICATION TO PROCEED IN FORMA
PAUPERIS

ORDER REQUIRING COOPER TO (1) FILE A
NOTICE OF VOLUNTARY DISMISSAL, OR
(2) FILE A PETITION OR A COMPLAINT
AND PAY THE FILING FEE OR FILE AN IFP
APPLICATION, WITHIN THIRTY DAYS

On June 15, 2010, Aaron L. Cooper, a state prisoner proceeding pro se, filed a petition for writ of habeas corpus and a motion seeking the appointment of counsel in the Sacramento Division of the Eastern District of California. The action was transferred to this division on June 22, 2010. Cooper signed neither filing, and they must be stricken from the record. Fed. R. Civ. P. 11(a); Local Rule 131(b).

Although Cooper is attempting to appeal the denial of his habeas corpus petition by the Kern County Superior Court, the Fifth District Court of Appeal, and the Supreme Court of California, a habeas petition in federal court is the proper mechanism to challenge the fact or duration of

1 confinement. 28 U.S.C. § 2254(a); Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991) (citing Preiser
2 v. Rodriguez, 411 U.S. 475, 485, 93 S.Ct. 1827, 1833 (1973)). Challenges to conditions of
3 confinement, such as those set forth in Cooper's petition, must be raised in a civil rights action.
4 Badea, 931 F.2d at 574 (citing Preiser, 411 U.S. at 485, 93 S.Ct. at 1833).

5 The Court will direct the Clerk's Office to provide Cooper with a form petition, a complaint
6 form, and an application to proceed in forma pauperis. With the above notice in mind, Cooper shall
7 file either a petition or a complaint within thirty days, and must either pay the filing fee in full or file
8 an application to proceed in forma pauperis.¹ In the alternative, Cooper may file a notice of
9 voluntary dismissal if he no longer wishes to pursue this action. Fed. R. Civ. P. 41(a)(1).

10 Accordingly, it is HEREBY ORDERED that:

- 11 1. Cooper's petition and motion for appointment of counsel, filed June 15, 2010, are
12 stricken from the record for lack of signature;
- 13 2. The Clerk's Office shall send Cooper a form petition, a complaint form, and an
14 application to proceed in forma pauperis;
- 15 3. Within **thirty (30) days** from the date of service of this order, Cooper shall (1) file
16 a notice of voluntary dismissal, or (2) file a petition or a complaint and either pay the
17 filing fee in full or file an application to proceed in forma pauperis; and
- 18 4. The failure to comply with this order will result in dismissal of this action, without
19 prejudice.

20
21 IT IS SO ORDERED.

22 **Dated: July 19, 2010**

23 /s/ Sandra M. Snyder
24 UNITED STATES MAGISTRATE JUDGE

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28 ¹ Cooper neither paid the filing fee nor filed an application to proceed in forma pauperis. The filing fee for writs of habeas corpus is \$5.00 and the filing fee for other civil actions is \$350.00. 28 U.S.C. § 1914(a).