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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 ALBERT LEDESMA, III,

12 Petitioner,

13 v.

14 KERN COUNTY SUPERIOR COURT,

15 Respondent.  
16

Case No. 1:15-cv-00736-SAB-HC

ORDER GRANTING PETITIONER'S  
APPLICATION TO PROCEED *IN FORMA*  
*PAUPERIS*

(ECF No. 2)

17 Petitioner is a former state prisoner proceeding with a petition for writ of habeas corpus  
18 pursuant to 28 U.S.C. § 2254.

19 On May 6, 2015, Petitioner filed the instant petition in the Sacramento Division of the  
20 United States District Court for the Eastern District of California. (ECF No. 1). Petitioner also  
21 filed an application to proceed *in forma pauperis* on May 6, 2015. (ECF No. 2). On May 13,  
22 2015, the Sacramento Division transferred this action to this Court. (ECF No. 4).

23 Title 28, United States Code, Section 1915 governs the determination of applications to  
24 proceed *in forma pauperis*. In order to proceed in court without prepayment of the filing fee,  
25 Petitioner must submit an affidavit demonstrating that he "is unable to pay such fees or give  
26 security therefor." 28 U.S.C. § 1915(a)(1). In assessing whether a certain income level meets  
27 the poverty threshold under Section 1915(a)(1), courts look to the federal poverty guidelines  
28 developed each year by the Department of Health and Human Services. See, e.g., Lint v. City of

1 Boise, No. CV09-72-S-EJL, 2009 WL 1149442, at \*2 (D. Idaho Apr. 28, 2009) (and cases cited  
2 therein).

3 The Court notes that Petitioner submitted the prisoner application to proceed *in forma*  
4 *pauperis*. However, Petitioner indicated in his petition and his application to proceed *in forma*  
5 *pauperis* that he is not incarcerated. Although Petitioner submitted the incorrect form, the form  
6 that Petitioner submitted includes sufficient information for the Court to determine whether to  
7 grant his application to proceed *in forma pauperis*. The Court will evaluate whether Petitioner  
8 meets the standard to proceed *in forma pauperis* according to Title 28, United States Code,  
9 Section 1915.

10 Based upon the information in his application to proceed *in forma pauperis*, the Court  
11 finds that Petitioner is indigent and unable to pay the filing fee. Accordingly, Petitioner's  
12 application to proceed *in forma pauperis* is GRANTED.

13 IT IS SO ORDERED.

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15 Dated: May 18, 2015

  
UNITED STATES MAGISTRATE JUDGE