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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ORLANDO GUTIERREZ,
Petitioner,
v.
C. WOFFORD, Warden,
Respondent.

Case No. 1:15-cv-01848-EPG-HC
ORDER GRANTING PETITIONER’S
APPLICATION TO PROCEED *IN FORMA*
PAUPERIS
(ECF No. 2)

Petitioner Orlando Gutierrez is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On December 10, 2015, Petitioner filed the instant petition in this Court. (ECF No. 1). Petitioner also filed an application to proceed *in forma pauperis* the same day. (ECF No. 2).

Title 28, United States Code, Section 1915 governs the determination of applications to proceed *in forma pauperis*. In order to proceed in court without prepayment of the filing fee, Petitioner must submit an affidavit demonstrating that he “is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a)(1). Although there is no set formula to determine whether a certain income level meets the poverty threshold under Section 1915(a)(1), courts have looked to the federal poverty guidelines developed each year by the Department of Health and Human Services. See Lint v. City of Boise, Civil Action No. 09-72-S-EJL, 2009 WL 1149442, at *2 (D. Idaho Apr. 28, 2009); Johnson v. Leohane, Civil Action No. 08-00432-ACK-KSC, 2008 WL

1 4527065, at *1 (D. Haw. Oct. 9, 2008); Johnson v. Spellings, 579 F.Supp.2d 188, 191 (D.D.C.
2 2008).

3 The Court has evaluated whether Petitioner meets the standard to proceed *in forma*
4 *pauperis* according to Title 28, United States Code, Section 1915. Based upon the information in
5 his application to proceed *in forma pauperis*, the Court finds that Petitioner is indigent and
6 unable to pay the filing fee.

7 Accordingly, Petitioner's application to proceed *in forma pauperis* is GRANTED.

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9 IT IS SO ORDERED.

10 Dated: December 17, 2015

/s/ Eric P. Grogan
11 UNITED STATES MAGISTRATE JUDGE

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