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

Chester Allen Coker

Petitioner,

No. CIV S-05-1814 MCE CMK

vs.

David L. Runnels, Warden, et al.,

Respondents.

FINDINGS & RECOMMENDATIONS

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Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis.


Examination of the affidavit reveals petitioner is unable to afford the costs of this action. Accordingly, leave to proceed in forma pauperis is granted. 28 U.S.C. § 1915(a).

The exhaustion of available state remedies is a prerequisite to a federal court's consideration of claims sought to be presented in habeas corpus proceedings. See Rose v. Lundy, 455 U.S. 509 (1982); 28 U.S.C. § 2254(b). A petitioner can satisfy the exhaustion requirement by providing the highest state court with a full and fair opportunity to consider all claims before presenting them to the federal court. Picard v. Connor, 404 U.S. 270, 276 (1971), Middleton v. Cupp, 768 F.2d 1083, 1086 (9th Cir.), cert. denied, 478 U.S. 1021 (1986).

1 After reviewing the petition for habeas corpus, the court finds that petitioner has  
2 failed to exhaust state court remedies. In his petition, petitioner indicates that, other than direct  
3 appeal, he has not filed any applications with respect to this judgment. (Pet. at 3.) Therefore, his  
4 claims have not been presented to the California Supreme Court. Further, there is no allegation  
5 that state court remedies are no longer available to him. Accordingly, IT IS HEREBY  
6 RECOMMENDED that petitioner's application for a writ of habeas corpus be dismissed for  
7 failure to exhaust state remedies.

8 These findings and recommendations will be submitted to the United States  
9 District Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within  
10 twenty days after being served with these findings and recommendations, any party may file  
11 written objections with the court and serve a copy on all parties. Such a document should be  
12 captioned "Objections to Findings and Recommendations." Any reply to the objections shall be  
13 served and filed within ten days after service of the objections. The parties are advised that  
14 failure to file objections within the specified time may waive the right to appeal the District  
15 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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17 DATED: September 13, 2005.

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20 **CRAIG M. KELLISON**  
21 UNITED STATES MAGISTRATE JUDGE  
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