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

FRANK D. LESLIE,

Petitioner,

No. CIV S-06-0302 GEB CMK P

vs.

STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS  
AND REHABILITATION, et al.,

Respondents.

ORDER

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Petitioner, a state prisoner proceeding pro se, has filed a “Petition for Writ of Mandamus/Prohibition, which the court construes as an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Examination of plaintiff’s filing reveals several deficiencies.

First, petitioner has not filed an in forma pauperis affidavit or paid the required filing fee (\$5.00). See 28 U.S.C. §§ 1914(a); 1915(a). Petitioner will be provided the opportunity to either submit the appropriate affidavit in support of a request to proceed in forma pauperis or submit the appropriate filing fee.

Next, “[a] petitioner for habeas corpus relief must name the state officer having custody of him or her as the respondent to the petition.” Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994) (citing Rule 2(a), 28 U.S.C. foll. § 2254). Petitioner has named The State of California Department of Corrections as respondents and the People of the State of California as the real party in interest. This entity and these individuals are not the proper respondent in this action. Accordingly, the instant petition must be dismissed with leave to amend. See Stanley, 21 F.3d at 360.

1 Finally, the court requires all petitions for writ of habeas corpus be filed on the  
2 proper form which is provided by this court. Moreover, the court may limit its review of the  
3 petition for relief to the information on the form only and need not consider any memoranda or  
4 attachments to the petition. See Rule 2(c), Rules Governing § 2254 Cases.

5 Petitioner is hereby notified that in order for this court to review his application,  
6 he must refile his petition on the proper form. Furthermore, although petitioner may submit a  
7 separate memorandum to support his petition for relief, the court's application form must contain  
8 all relevant claims, and must provide the court with all necessary information.

9 In accordance with the above, IT IS HEREBY ORDERED that:

10 1. Petitioner's application for writ of habeas corpus is dismissed with leave to file  
11 an amended petition within thirty days from the date of this order;

12 2. Any amended petition must be filed on the form employed by this court, must  
13 name the proper respondent, and must state all claims and prayers for relief on the form. It must  
14 bear the case number assigned to this action and must bear the title "Amended Petition";

15 3. Petitioner shall submit, with any amended petition, an affidavit in support of  
16 his request to proceed in forma pauperis or the appropriate filing fee;

17 4. The Clerk of the Court is directed to send petitioner a copy of the form for  
18 habeas corpus application used by this district and a copy of the in forma pauperis form used by  
19 this district.

20  
21 DATED: February 23, 2006.

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24 **CRAIG M. KELLISON**  
25 UNITED STATES MAGISTRATE JUDGE  
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