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

ANTHONY ANDRE SHARP,

Petitioner,

No. CIV S-06-0432 LKK CMK P

vs.

UNITED STATES POSTAL SERVICE,

Respondent.

FINDINGS & RECOMMENDATIONS

_____ /

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).

Federal habeas relief under 28 U.S.C. § 2254 is available for persons who are in custody under a state court judgment seeking a determination that the custody violates the Constitution of the United States. See 28 U.S.C. § 2241(c). It is also available for persons who are in custody under a state court judgment and seek a determination that future custody would violate the Constitution of the United States. See id.


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1 Here, petitioner states that he was convicted in 1997 and sentenced to eighteen
2 years in prison, but that his “petition does not involve conviction.” He states that his “conviction
3 is not under attack” instead he “request[s] a federal court order.” Petitioner apparently seeks an
4 order compelling a witness to appear at a civil trial. Such relief is not available under the federal
5 habeas statutes.

6 Accordingly, IT IS HEREBY RECOMMENDED that petitioner's application for
7 a writ of habeas corpus be dismissed.

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. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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17 DATED: March 8, 2006.

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