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

DANA POUGH,

Plaintiff,

No. CIV S-07-0035 MCE EFB P

vs.

BRIAN HIXON, et al.,

Defendants.

ORDER

_____/

Plaintiff, a prisoner without counsel, has filed a complaint alleging that misapplication of custody credits affecting his parole status, together with a request to proceed *in forma pauperis*.

Plaintiff has not, however, filed his application on the form required by this district.

Accordingly, plaintiff's application will be denied without prejudice to refileing it on the appropriate form. Plaintiff is cautioned that he must also provide a certified copy of his prison trust account statement for the six-month period immediately preceding the filing of his action.

As a general rule, a challenge in federal court to the fact of conviction or the length of confinement must be raised in a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. *See Preiser v. Rodriguez*, 411 U.S. 475 (1973). A civil rights action, on the other hand, is appropriate for challenges to the conditions of an inmate's confinement. *Id.* at 499. Plaintiff has sought to bring a complaint challenging the length of his confinement.

1 For the foregoing reasons, IT IS HEREBY ORDERED that:

2 1. Plaintiff's application to proceed *in forma pauperis* is denied without prejudice;

3 2. The Clerk of the Court is directed to send plaintiff a new Application to Proceed In
4 Forma Pauperis By a Prisoner;

5 3. Plaintiff shall submit, within thirty days from the date of this order, a completed
6 application. Plaintiff's failure to comply with this order will result in a recommendation that this
7 action be dismissed without further leave to amend or cure deficiencies.

8 4. Plaintiff's complaint is dismissed without prejudice for failure to state a claim upon
9 which relief may be granted.

10 5. Plaintiff is granted a period of thirty days from the date this order is served to file a
11 petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254.

12 6. The petition must bear the case number assigned to this action.

13 7. The Clerk of the Court is directed to send plaintiff the court's forms for application for
14 writ of habeas corpus.

15 DATED: January 17, 2007.

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17 EDMUND F. BRENNAN
18 UNITED STATES MAGISTRATE JUDGE
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