

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

VICTOR G. QUIROZ,

Plaintiff,

No. CIV S-07-1166 GEB GGH P

vs.

STATE OF CALIFORNIA,

Defendant.

ORDER

_____/

Plaintiff, a State of California parolee violator detained in Napa State Hospital, has filed a “motion for change of venue [statutory law 787].” No other pleadings have been filed by the plaintiff. In order to commence an action, plaintiff must file a complaint as required by Rule 3 of the Federal Rules of Civil Procedure, and plaintiff must either pay the required filing fee or file an application requesting leave to proceed in forma pauperis.¹ See 28 U.S.C. §§ 1914(a), 1915(a). The court will not issue any orders granting or denying relief until an action has been properly commenced. Therefore, plaintiff’s motion will be denied without prejudice.

If plaintiff is challenging a condition of confinement, he should file a civil rights complaint. If plaintiff is challenging the legality of his conviction, he should file a habeas corpus

¹ If leave to file in forma pauperis is granted, plaintiff will still be required to pay the filing fee but will be allowed to pay it in installments.

1 petition. Plaintiff will be provided the opportunity to file either a complaint or a habeas corpus
2 petition, and to submit an application requesting leave to proceed in forma pauperis or to submit
3 the appropriate filing fee.

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

5 1. Plaintiff's June 14, 2007 motion for a change of venue is denied without
6 prejudice;

7 2. Plaintiff is granted thirty days from the date of service of this order to file a
8 civil rights complaint or a habeas corpus petition. Plaintiff shall also submit, within thirty days
9 from the date of this order, the application to proceed in forma pauperis on the form provided by
10 the Clerk of Court, or the filing fee for a civil rights action (\$350.00) or a habeas corpus petition
11 (\$5). Plaintiff's failure to comply with this order will result in a recommendation that this matter
12 be dismissed; and

13 3. The Clerk of the Court is directed to send plaintiff the court's form for filing a
14 civil rights action and a habeas corpus petition, and the application to proceed in forma pauperis
15 by a prisoner.

16 DATED: 7/2/07

/s/ Gregory G. Hollows

17
18

GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

19 GGH:bb
20 quir1166.noc