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

BRIAN TOMASELLO,

Petitioner,

No. CIV S-08-3033 EFB P

vs.

D.K. SISTO, et al.,

Respondents.

ORDER

_____ /

Petitioner, a state prisoner proceeding without counsel, seeks a writ of habeas corpus. See 28 U.S.C. § 2254. Petitioner seeks leave to proceed *in forma pauperis*. See 28 U.S.C. § 1915(a).

Examination of the *in forma pauperis* affidavit reveals that petitioner is unable to afford the costs of suit.

A judge “entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243. It is not apparent from the face of the application that the petitioner is not entitled to relief.

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