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

TERRELL RAY O’NEAL,

Petitioner,

No. CIV S-08-3139 DAD P

vs.

UNKNOWN,

Respondent.

ORDER

\_\_\_\_\_/

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 in forma pauperis affidavit reveals that petitioner is unable to afford the costs of suit. Accordingly, the request for leave to proceed in forma pauperis is granted. See 28 U.S.C. § 1915(a).

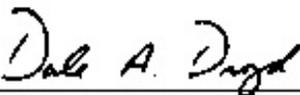
“A petitioner for habeas corpus relief must name the state officer having custody of him or her as the respondent to the petition.” Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994) (citing Rule 2(a), 28 U.S.C. foll. § 2254). Petitioner has not named anyone as respondent in this action. Accordingly, the instant petition must be dismissed with leave to amend. See Stanley, 21 F.3d at 360. Petitioner is advised that the proper respondent in

1 the usual habeas action is the warden of the institution where the petitioner is currently  
2 incarcerated. See Stanley, 21 F.3d at 360.

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

- 4 1. Petitioner's request to proceed in forma pauperis is granted;
- 5 2. Petitioner's application for writ of habeas corpus is dismissed with leave to file  
6 an amended petition within thirty days from the date of this order;
- 7 3. Any amended petition must be filed on the form employed by this court, must  
8 name the proper respondent, and must state all claims and prayers for relief on the form. It must  
9 bear the case number assigned to this action and must bear the title "Amended Petition"; and
- 10 4. The Clerk of the Court is directed to send petitioner the form for habeas corpus  
11 application.

12 DATED: January 7, 2009.

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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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