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

KEITH HUGH JENSEN,

Petitioner,

No. CIV S-09-0512 DAD P

vs.

ROBERT J. HERNANDEZ,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma pauperis.¹

Examination of the in forma pauperis application reveals that petitioner is unable to afford the costs of suit. Accordingly, the application to proceed in forma pauperis will be granted. See 28 U.S.C. § 1915(a).

Since petitioner may be entitled to relief if the claimed violation of constitutional rights is proved, respondent will be directed to file a response to petitioner’s habeas petition.

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¹ On March 26, 2009, petitioner filed a second application to proceed in forma pauperis. That application will be disregarded as unnecessary.

1 With his habeas petition, petitioner filed a document styled, “Application For
2 Certificate Of Appealability From District Court,” in which petitioner asserts that he presented to
3 the California Supreme Court all of the nineteen claims which are included in his federal habeas
4 petition. Petitioner misunderstands the purpose of a certificate of appealability. Petitioner is
5 advised that a certificate of appealability pursuant to 28 U.S.C. § 2253(c) and Rule 22(b) of the
6 Federal Rules of Appellate Procedure applies only after this court has rendered a decision on the
7 federal habeas petition and a party seeks to appeal that decision to the U.S. Court of Appeals.
8 Therefore, petitioner’s application will be denied.

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

10 1. Petitioner’s application to proceed in forma pauperis (Doc. No. 2) is granted;

11 2. Respondent is directed to file a response to petitioner’s habeas petition within
12 sixty days from the date of this order. See Rule 4, Fed. R. Governing § 2254 Cases. An answer
13 shall be accompanied by all transcripts and other documents relevant to the issues presented in
14 the petition. See Rule 5, Fed. R. Governing § 2254 Cases;

15 3. If the response to the habeas petition is an answer, petitioner’s reply, if any,
16 shall be filed and served within thirty days after service of the answer;

17 4. If the response to the habeas petition is a motion, petitioner’s opposition or
18 statement of non-opposition to the motion shall be filed and served within thirty days after
19 service of the motion, and respondent’s reply, if any, shall be filed and served within fifteen days
20 thereafter;

21 5. Petitioner’s February 23, 2009 application for a certificate of appealability
22 (Doc. No. 3) is denied; and

23 6. The Clerk of the Court shall serve a copy of this order, a copy of the petition
24 for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. No. 1), and the court’s form

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1 regarding consent or request for reassignment on Michael Patrick Farrell, Senior Assistant
2 Attorney General.

3 DATED: September 17, 2009.

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6 _____
7 DALE A. DROZD
8 UNITED STATES MAGISTRATE JUDGE

7 DAD:4
8 jen0512.100+

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