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

ISAAC KELLEY,

Petitioner,

No. CIV S-09-1680 EFB P

vs.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, et al.,

Respondents.

ORDER

_____ /

Petitioner, a prisoner without counsel, has filed a petition for a writ of habeas corpus.
See 28 U.S.C. § 2254.

To proceed with this action, petitioner must pay the \$5 filing fee required by 28 U.S.C. § 1914(a) or request leave to proceed *in forma pauperis* and submit the affidavit and trust account statement required by 28 U.S.C. § 1915(a). Pursuant 28 U.S.C. § 1915(a), Rule 3(a)(2) of the Federal Rules Governing § 2254 Cases requires a habeas petitioner to submit “. . . certification from the warden or other appropriate officer of the place of confinement showing the amount of money or securities that the petitioner has in any account in the institution.” This requirement may be satisfied by having the appropriate prison official complete the certificate portion of the form application or by submitting a certified copy of petitioner’s prison trust

1 account statement. Petitioner has submitted an application to proceed *in forma pauperis*. The
2 application is deficient, however, because petitioner has not submitted a certification showing
3 the amount of money in his prison trust account, completed and signed by an authorized prison
4 official, or a certified copy of his trust account statement showing transactions for the six months
5 preceding the filing of the petition. Dckt. No. 8; *see* 28 U.S.C. § 1915(a)(2).

6 Petitioner has submitted a letter to the court alleging that prison officials have refused to
7 sign the certification. If petitioner's request is ignored or petitioner is unable to comply with
8 § 1915(a)(2) for some other reason, he should submit the affidavit required by § 1915(a)(1) as
9 well as documentation (or a declaration, signed under penalty of perjury) that supports his
10 representation to the court regarding his attempt to submit a proper *in forma pauperis*
11 application.

12 Accordingly, petitioner has 21 days from the date of service of this order to submit one of
13 the following: (1) the \$5 filing fee, (2) the application required by § 1915(a), or (3) the affidavit
14 required by § 1915(a)(1) and documentation (or a declaration) explaining why plaintiff cannot
15 comply with § 1915(a)(2). The Clerk of the Court is directed to mail to petitioner a form
16 application for leave to proceed *in forma pauperis*. Failure to comply with this order will result
17 in dismissal of this action.

18 So ordered.

19 Dated: August 5, 2010.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE