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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.,

ORDER

Respondents.

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Petitioner, a prisoner without counsel, has filed a petition for writ of habeas corpus. *See* 28 U.S.C. § 2254. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to petitioner’s consent. *See* 28 U.S.C. § 636; *see also* E.D. Cal. Local Rules, Appx. A, at (k)(4).

To proceed with a civil action a plaintiff must pay the \$350 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).

On August 6, 2010, the court found that petitioner had failed to pay the filing fee required by 28 U.S.C. § 1914(a) and had not properly requested leave to proceed *in forma pauperis* under 28 U.S.C. § 1915(a). The court ordered petitioner to submit within 21 days either (1) the

1 required filing fee, (2) a proper application to proceed *in forma pauperis*, or (3) the *in forma*  
2 *pauperis* affidavit required by 28 U.S.C. § 1915(a)(1) along with documentation, or a  
3 declaration, explaining why petitioner could not comply with 28 U.S.C. § 1915(a)(2). The court  
4 ordered the Clerk to send petitioner a form *in forma pauperis* application and warned petitioner  
5 that failure to comply with the order would result in dismissal.

6 More than twenty-one days have passed and petitioner has not submitted the required  
7 filing fee, an application to proceed *in forma pauperis* or otherwise responded to the court's  
8 order.<sup>1</sup>

9 Accordingly, it is hereby ORDERED that this action is dismissed without prejudice.

10 Dated: October 4, 2010.

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12 EDMUND F. BRENNAN  
13 UNITED STATES MAGISTRATE JUDGE  
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26 <sup>1</sup> On August 12, 2010, petitioner submitted a notice of change of address. On August 31,  
2010, the Clerk reserved the August 6 order on petitioner at his new address.