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8	IN THE UNITED STATES DISTRICT COURT
9	FOR THE EASTERN DISTRICT OF CALIFORNIA
10	JONATHAN BURRELL,
11	Petitioner, No. CIV S-09-1734 FCD DAD P
12	VS.
13	D.K. SISTO, Warden,
14	Respondent. <u>ORDER</u>
15	/
16	Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of
17	habeas corpus pursuant to 28 U.S.C. § 2254. In accordance with the court's July 2, 2009 order,
18	petitioner has also filed an application to proceed in forma pauperis. <sup>1</sup>
19	Examination of the in forma pauperis application reveals that petitioner is unable
20	to afford the costs of suit. Accordingly, the application to proceed in forma pauperis will be
21	granted. See 28 U.S.C. § 1915(a).
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23	<sup>1</sup> On August 14, 2009, the court issued findings and recommendations, recommending
24	dismissal of this action due to petitioner's failure to either pay the filing fee or file an application to proceed in forma pauperis. On August 28, 2009, petitioner filed objections to the findings and
25	recommendations, together with an application to proceed in forma pauperis. Good cause appearing, the court will vacate its findings and recommendations and allow the case to proceed in accordance
26	with this order.

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1	Since petitioner may be entitled to relief if the claimed violation of constitutional
2	rights is proved, respondent will be directed to file a response to petitioner's habeas petition.
3	In accordance with the above, IT IS HEREBY ORDERED that:
4	1. The court's August 14, 2009 findings and recommendations are vacated;
5	2. Petitioner's application to proceed in forma pauperis (Doc. No. 8) is granted;
6	3. Respondent is directed to file a response to petitioner's habeas petition within
7	sixty days from the date of this order. See Rule 4, Fed. R. Governing § 2254 Cases. An answer
8	shall be accompanied by all transcripts and other documents relevant to the issues presented in
9	the petition. See Rule 5, Fed. R. Governing § 2254 Cases;
10	4. If the response to the habeas petition is an answer, petitioner's reply, if any,
11	shall be filed and served within thirty days after service of the answer;
12	5. If the response to the habeas petition is a motion, petitioner's opposition or
13	statement of non-opposition to the motion shall be filed and served within thirty days after
14	service of the motion, and respondent's reply, if any, shall be filed and served within fifteen days
15	thereafter; and
16	6. The Clerk of the Court shall serve a copy of this order, a copy of the petition
17	for writ of habeas corpus pursuant to 28 U.S.C. § 2254, and a copy of the form regarding consent
18	or request for reassignment on Michael Patrick Farrell, Senior Assistant Attorney General.
19	DATED: September 3, 2009.
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21	Dale A. Drogd DALE A. DROZD
22	UNITED STATES MAGISTRATE JUDGE
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