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

ANTONIO V. VILLASENOR,

Petitioner,

No. CIV S-09-2324 FCD EFB P

vs.

MICHAEL MARTELL,

Respondent.

ORDER

Petitioner, a state prisoner proceeding without counsel, seeks a writ of habeas corpus. See 28 U.S.C. § 2254. Petitioner seeks leave to proceed *in forma pauperis*. See 28 U.S.C. § 1915(a).

Examination of the *in forma pauperis* affidavit reveals that petitioner is unable to afford the costs of suit.

A judge “entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243. It is not apparent from the face of the application that the petitioner is not entitled to relief.

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1           Petitioner has also requested a stay while he exhausts his claims in state court. Thus,  
2 before respondent is directed to respond to the petition, respondent may submit briefing  
3 regarding whether a stay should issue.

4           Accordingly, it is hereby ordered that:


5           1. Petitioner's motion to proceed *in forma pauperis* is granted;

6           2. The Clerk of the Court shall serve a copy of this order together with a copy of  
7 petitioner's August 21, 2009 petition for a writ of habeas corpus with any and all attachments on  
8 Michael Patrick Farrell, Senior Assistant Attorney General for the State of California;

9           3. Respondent shall file an opposition or a statement of non-opposition to petitioner's  
10 motion for a stay within 30 days of the date of this order; and

11           4. Petitioner's reply, if any, shall be filed and served within 14 days thereafter.

12 Dated: May 20, 2010.

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14 EDMUND F. BRENNAN  
15 UNITED STATES MAGISTRATE JUDGE  
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