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

BRIAN FOWLIE,

Petitioner,

No. CIV S-09-2857 GGH P

vs.

JOHN W. HAVILAND, et al.,

Respondents.

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.

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).

Petitioner challenges a 2008 parole suitability hearing where he was found unsuitable for parole. Petitioner also states that he was found suitable for parole at his September 2009 suitability hearing. Because petitioner has been found suitable for parole, it is unclear what relief the court could order regarding the 2008 suitability hearing.

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

1. Petitioner’s application to proceed in forma pauperis is granted;

2. Within twenty-one (21) days from the date of this order, petitioner shall file a short declaration addressing what relief he seeks regarding the 2008 suitability hearing; petitioner shall also address why this action should not be dismissed as moot based on the finding of parole suitability at the 2009 hearing.

DATED: December 8, 2009

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

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