

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

CHARLIE CHONG THAO,

Petitioner,

No. CIV S-09-3572 EFB P

vs.

WARDEN SWARTHOUTH,

ORDER

Respondent.

\_\_\_\_\_ /

Petitioner is a prisoner proceeding without counsel seeking a 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).


On January 5, 2010, the court found that petitioner had failed to pay the filing fee required by 28 U.S.C. § 1914(a) or a request to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). Petitioner was granted thirty days in which to pay the filing fee or file an application to proceed *in forma pauperis* and was warned that failure to comply would result in a recommendation that this action be dismissed.

The 30-day period expired without petitioner submitting the filing fee, a completed *in forma pauperis* application, or any other response to the court’s order. Accordingly, the undersigned recommended on March 18, 2010 that the action be dismissed without prejudice.

1 However, on April 14, 2010, petitioner submitted a Motion to Proceed In Forma Pauperis. The  
2 court therefore vacates the Order and Findings and Recommendations dated March 18, 2010.  
3 The court will rule on plaintiff's application to proceed *in forma pauperis* and screen the case  
4 pursuant to Rule 4 of the Rules Governing § 2254 cases in due course.

5 So ordered.

6 Dated: May 11, 2010.

7   
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26