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

MATHEW ROBERT SMITH,

Petitioner,

No. CIV S-10-0070 DAD P

vs.

PEOPLE OF CALIFORNIA, et al.,

Respondents.

ORDER

\_\_\_\_\_/

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On January 15, 2010, the court ordered petitioner to either file an application to proceed in forma pauperis or pay the required filing fee (\$5.00). In accordance with the court's order, petitioner has filed an application to proceed in forma pauperis. However, upon review of petitioner's IFP application, the court finds that petitioner is able to afford the \$5.00 filing fee for this action. Petitioner's inmate trust account statement indicates that he has a current balance of \$1,172. 56. In addition, the certificate portion of petitioner's IFP application indicates that, during the past six months, petitioner's average monthly balance was \$206.14 and the average monthly deposits to his account was \$230.49. Accordingly, the court will deny petitioner's application to proceed in forma pauperis and direct him to pay the filing fee for this action.

1                   Accordingly, IT IS HEREBY ORDERED that:

2                   1. Petitioner's February 5, 2010 application to proceed in forma pauperis (Doc.  
3 No. 5) is denied; and

4                   2. Petitioner shall submit, within thirty days from the date of this order, the  
5 appropriate filing fee (\$5.00). Petitioner's failure to comply with this order will result in a  
6 recommendation for dismissal of this action.

7 DATED: February 12, 2010.

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11                  DALE A. DROZD  
12                  UNITED STATES MAGISTRATE JUDGE

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