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

KEVIN BARTHOLOMEW,

Petitioner,

No. CIV S-10-0073 GGH P

vs.

GARY SWARTHOUT,

Respondent.

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. Petitioner has not, however, filed an in forma pauperis affidavit or paid the required filing fee (\$5.00). See 28 U.S.C. §§ 1914(a); 1915(a). Petitioner will be provided the opportunity to either submit the appropriate affidavit in support of a request to proceed in forma pauperis or submit the appropriate filing fee.

Since petitioner may be entitled to relief if the claimed violation of constitutional rights is proved, respondents will be directed to file a response to petitioner’s habeas petition.

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

2 1. Petitioner shall submit, within thirty days from the date of this order, an  
3 affidavit in support of his request to proceed in forma pauperis or the appropriate filing fee;  
4 petitioner's failure to comply with this order will result in the dismissal of this action;

5 2. The Clerk of the Court is directed to send petitioner a copy of the in forma  
6 pauperis form used by this district;

7 3. Respondents are directed to file a response to petitioner's habeas petition  
8 within sixty days from the date of this order. See Rule 4, Fed. R. Governing § 2254 Cases. An  
9 answer shall be accompanied by all transcripts and other documents relevant to the issues  
10 presented in the petition. See Rule 5, Fed. R. Governing § 2254 Cases;

11 4. If the response to the habeas petition is an answer, petitioner's reply, if any,  
12 shall be filed and served within thirty days after service of the answer;

13 5. If the response to the habeas petition is a motion, petitioner's opposition or  
14 statement of non-opposition to the motion shall be filed and served within thirty days after  
15 service of the motion, and respondents' reply, if any, shall be filed and served within fifteen days  
16 thereafter; and

17 6. The Clerk of the Court shall serve a copy of this order, *the*  
18 *consent/reassignment form contemplated by Appendix A(k) to the Local Rules of this court*  
19 *together with a copy of the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on*  
20 *Michael Patrick Farrell, Senior Assistant Attorney General.*

21 DATED: January 29, 2010

22  
23 /s/ Gregory G. Hollows

24 \_\_\_\_\_  
GREGORY G. HOLLOWES  
UNITED STATES MAGISTRATE JUDGE

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