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

LARRY AUGUSTUS GARDNER,

Petitioner,

No. 2:10-cv-0142 JFM (HC)

vs.

MIKE McDONAL,

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, together with a request to proceed in forma pauperis.

Examination of the in forma pauperis affidavit reveals that petitioner is unable to afford the costs of suit. Accordingly, the request for leave to proceed in forma pauperis is granted. See 28 U.S.C. § 1915(a).

Since petitioner may be entitled to the requested relief if the claimed violation of constitutional rights is proved, respondent will be directed to file an answer.

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

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

3 2. Respondent is directed to file an answer within forty-five days from the date of
4 this order. See Rule 4, Rules Governing Section 2254 Cases. Respondent shall include with the
5 answer any and all transcripts or other documents relevant to the determination of the issues
6 presented in the application. Rule 5, Rules Governing Section 2254 Cases;

7 3. Petitioner’s traverse, if any, is due on or before thirty days from the date
8 respondent’s answer is filed;

9 4. The Clerk of the Court shall serve a copy of this order together with a copy of
10 petitioner’s application for writ of habeas corpus and an Order Re Consent or Request for
11 Reassignment on Michael Patrick Farrell, Senior Assistant Attorney General.

12 DATED: January 26, 2010.

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15 UNITED STATES MAGISTRATE JUDGE

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