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

KENYA GAYLES,

Petitioner,

No. CIV S-10-0150 DAD P

vs.

GARY SWARTHOUT, Warden,

Respondent.

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. In accordance with the court’s January 29, 2010 order, petitioner has filed 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).

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

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

- 1. Petitioner’s application to proceed in forma pauperis (Doc. No. 7) is granted;

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

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

7           4. If the response to the habeas petition is a motion, petitioner's opposition or  
8 statement of non-opposition to the motion shall be filed and served within thirty days after  
9 service of the motion, and respondent's reply, if any, shall be filed and served within fourteen days  
10 thereafter; and

11           5. The Clerk of the Court shall serve a copy of this order, a copy of the petition  
12 for writ of habeas corpus and accompanying memorandum of points and authorities and exhibits  
13 (Doc. Nos. 1-3), and a copy of the form regarding consent or request for reassignment on  
14 Michael Patrick Farrell, Senior Assistant Attorney General.

15 DATED: March 3, 2010.

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19 DALE A. DROZD  
20 UNITED STATES MAGISTRATE JUDGE

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