

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

WILLIAM LEGG,

Petitioner,

No. 2:10-cv-0488 WBS KJN P

VS.

M. S. EVANS, Warden,

## Respondent.

## ORDER

Petitioner, a state prisoner proceeding without counsel, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging the denial of parole in 2008, together with an application to proceed in forma pauperis.

Pursuant to federal statute, a filing fee of \$5.00 is required to commence a habeas corpus action in federal district court. 28 U.S.C. § 1914(a). The court may authorize the commencement of an action “without prepayment of fees and costs or security therefor, by a person who makes affidavit that he is unable to pay such costs or give security therefor.” 28 U.S.C. § 1915(a).

Petitioner's in forma pauperis affidavit certifies that petitioner earns \$48.00 a month and that his trust account has, over the past six months, held an average monthly balance of \$342.60. See Dkt. No. 7. The amounts of petitioner's earnings and savings demonstrate that petitioner is able to pay the fee associated with filing this motion. Thus, petitioner has made an

1 inadequate showing of indigency, see, e.g., Taylor v. Delatoore, 281 F.3d 844 (9th Cir. 2002),  
2 and should be required to pay the initial filing fee in this action.<sup>1</sup>

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Petitioner shall, within twenty-one days of the filing date of this order, submit  
5 the appropriate filing fee (\$5.00) to the Clerk of the Court; and  
6  
7 2. Petitioner is cautioned that failure to pay the fee will result in a  
recommendation that this action be dismissed.

8 Accordingly, IT IS HEREBY ORDERED that, within twenty-one days after the  
9 filing date of this order, petitioner shall submit the appropriate filing fee.

10 DATED: April 29, 2010

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14 KENDALL J. NEWMAN  
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16 UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> In forma pauperis status may provide financial benefits beyond that associated with a case's initial filing fee. See 28 U.S.C. § 1915(c). Should additional expenses beyond petitioner's capacity to pay be required later in this case, petitioner may submit another application to proceed in forma pauperis.