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

ANTHONY R. TURNER,

Petitioner,

No. 2: 10-cv-1848 KJN P

vs.

WARDEN SALINAS,

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 and an application to proceed in forma pauperis.

Petitioner alleges that he is receiving inadequate medical care at the Deuel Vocation Institution. The purpose of a habeas corpus petition is to challenge the legality of a conviction or sentence. The purpose of a civil rights action brought pursuant to 42 U.S.C. § 1983 is to challenge conditions of confinement. Because petitioner is challenging conditions of confinement, this action is construed as a civil rights action.

Petitioner has submitted a declaration that makes the showing required by 28 U.S.C. § 1915(a). Accordingly, the request to proceed in forma pauperis will be granted.

///

1 Petitioner is required to pay the statutory filing fee of \$350.00 for this action.
2 28 U.S.C. §§ 1914(a), 1915(b)(1). By this order, petitioner will be assessed an initial partial
3 filing fee in accordance with the provisions of 28 U.S.C. § 1915(b)(1). By separate order, the
4 court will direct the appropriate agency to collect the initial partial filing fee from petitioner's
5 prison trust account and forward it to the Clerk of the Court. Thereafter, petitioner will be
6 obligated to make monthly payments of twenty percent of the preceding month's income credited
7 to petitioner's prison trust account. These payments will be forwarded by the appropriate agency
8 to the Clerk of the Court each time the amount in petitioner's account exceeds \$10.00, until the
9 filing fee is paid in full. 28 U.S.C. § 1915(b)(2).

10 The petition is dismissed with leave to file a civil rights complaint. Following
11 receipt of the complaint, the court will issue further orders.

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

13 1. Petitioner's request for leave to proceed in forma pauperis is granted.

14 2. Petitioner is obligated to pay the statutory filing fee of \$350.00 for this action.
15 Petitioner is assessed an initial partial filing fee in accordance with the provisions of 28 U.S.C.
16 § 1915(b)(1). All fees shall be collected and paid in accordance with this court's order to the
17 Director of the California Department of Corrections and Rehabilitation filed concurrently
18 herewith.

19 3. This action is construed as a civil rights action pursuant to 42 U.S.C. § 1983;

20 4. The petition is dismissed with twenty-eight days leave to file a civil rights
21 complaint; failure to file a complaint within that time will result in dismissal of this action;

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5. The Clerk of the Court is directed to send petitioner the form for a civil rights complaint by a prisoner.

DATED: July 21, 2010


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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

ANTHONY R. TURNER,

Plaintiff,

No. 2: 10-cv-1848 KJN P

vs.

WARDEN SALINAS,

NOTICE OF AMENDMENT

Defendant.

_____ /

Plaintiff hereby submits the following document in compliance with the court's
order filed _____:

_____ Amended Complaint

DATED:

Plaintiff