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

TONY DAVIS,

Petitioner,

No. CIV S-10-3224 DAD (TEMP) P

vs.

GARY SWARTHOUT,

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, together with 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.

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

2 1. Petitioner's motion to proceed in forma pauperis (docket no. 2) is granted;

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

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

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

13 5. The Clerk of the Court shall serve a copy of this order, the
14 consent/reassignment form contemplated by Appendix A(k) to the Local Rules of this court, and
15 a copy of the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on Michael Patrick
16 Farrell, Senior Assistant Attorney General.

17 DATED: January 21, 2011.

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21 DALE A. DROZD
22 UNITED STATES MAGISTRATE JUDGE

21 DAD:kc
22 davi3224.100