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

HUNG DUONG NGUON,

Plaintiff,

No. CIV S-11-0167 GGH P

vs.

VIRGA,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se with an action that has been filed using a form for a petition for a writ of habeas corpus. Plaintiff alleges prison officials are not providing fruit juice.

The purpose of a petition for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254 is to challenge the legality of confinement. The purpose of a civil rights action is to challenge the conditions of confinement. Because this action challenges conditions of confinement, the court construes it as a civil rights action. Accordingly, the petition is dismissed with leave to file a civil rights complaint.

The certificate portion of plaintiff's in forma pauperis application which must be completed by plaintiff's institution of incarceration has not been filled out. Plaintiff will be provided the opportunity to submit a completed in forma pauperis application and a certified

1 copy of his trust account in support of his application.¹

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

3 1. This action is construed as a civil rights action; the petition is dismissed with
4 twenty-eight days to file a civil rights complaint;

5 2. The Clerk of the Court is directed to send plaintiff the form for a civil rights
6 complaint used in this district;

7 3. Plaintiff's motion to proceed in forma pauperis (Doc. 2) is denied;

8 4. Plaintiff shall submit, within twenty-eight days from the date of this order, a
9 completed affidavit in support of his request to proceed in forma pauperis on the form provided
10 by the Clerk of Court;

11 5. The Clerk of the Court is directed to send plaintiff a new Application to
12 Proceed In Forma Pauperis By a Prisoner used in this district;

13 6. Plaintiff's failure to comply with this order will result in a recommendation
14 that this action be dismissed without prejudice.

15 DATED: February 22, 2010

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17 /s/ Gregory G. Hollows
18 UNITED STATES MAGISTRATE JUDGE

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25 ¹ The court notes that plaintiff has filed approximately 30 different actions in the past year
26 and has only followed court directions and filed an in forma pauperis application in a few cases.
Plaintiff has already filed 6 actions in 2011.