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

JAMES MICHAEL MUNRO,

Petitioner,

No. CIV S-11-2602 LKK DAD P

vs.

M. MARTEL,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has not, however, filed an in forma pauperis affidavit or paid the required filing fee (\$5.00). See 28 U.S.C. §§ 1914(a); 1915(a). Petitioner will be provided the opportunity to either submit the appropriate affidavit in support of a request to proceed in forma pauperis or submit the appropriate filing fee.¹

¹ Petitioner is advised that should he proceed with this action by submitting an in forma pauperis application or the filing fee, it is likely that the court will recommend that this action be summarily dismissed. A habeas action is appropriate to challenge the fact or duration of a prisoner’s custody and when a determination of the habeas action may result in a prisoner’s entitlement to an earlier release. See Preiser v. Rodriguez, 411 U.S. 475 (1973); Young v. Kenny, 907 F.2d 874 (9th Cir. 1990). Here, petitioner seeks to have the California Department of Corrections and Rehabilitation change his records to reflect a name change and to have a new identification card issued reflecting his new name. This relief sought by petitioner is not available through a federal habeas action.

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

2 1. Petitioner shall submit, within thirty days from the date of this order, an
3 affidavit in support of his request to proceed in forma pauperis or the appropriate filing fee, or in
4 the alternative, petitioner may submit a request that this action be voluntarily dismissed;
5 petitioner's failure to comply with this order will result in the dismissal of this action; and

6 2. The Clerk of the Court is directed to send petitioner a copy of the in forma
7 pauperis form used by this district.

8 DATED: November 2, 2011.

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11 _____
12 DALE A. DROZD
13 UNITED STATES MAGISTRATE JUDGE

13 DAD:md/4
14 munr2602.101a