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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER D. THOMPSON,
Petitioner,
v.
SACRAMENTO MUNICIPAL COURT,
Respondent.

No. 2:13-cv-0747 AC P

ORDER

Petitioner is a state prisoner who proceeds pro se on his petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. On April 23, 2013, the court directed petitioner to submit within 30 days an appropriate application to proceed in forma pauperis, or to pay the filing fee. To date, petitioner has done neither. Instead, he has filed: (1) a letter, dated May 10, 2013, advising the court that he gave his form to a counselor, and has not yet received it back; and (2) a request for clarification, asking why he has received a second information packet for signature. The court will address each of petitioner’s inquiries in turn.

Motion to Proceed In Forma Pauperis

In order to proceed on the filed habeas petition, petitioner must either pay the filing fee (\$5.00), or file a motion to proceed in forma pauperis. The court specifically advised petitioner of this requirement in its April 23, 2013 order. To date petitioner has failed to comply, instead advising the court that, as of May 10, 2013, he has given the form to a counselor but not yet

1 received the form back. He further asks if his submission of the consent form will allow him to
2 proceed.

3 Petitioner is advised that his decision to consent to the jurisdiction of the undersigned is
4 distinct from his obligation to pay the fee, or to file a motion to proceed in forma pauperis. The
5 court will accordingly construe the May 10, 2013 letter as a request for an extension of time to
6 comply with the court's April 23, 2013 order. Petitioner shall have 30 days from the filing date
7 of this order either to pay the filing fee, or to file a complete application to proceed in forma
8 pauperis. Failure of petitioner to comply may result in dismissal of the petitioner without
9 prejudice.

10 *Request for Clarification*

11 In his request for clarification, petitioner asks why he has been sent a new information
12 packet with a new case number. He also writes that he has sent "the original plus two copies,"
13 and asks what he is supposed to do, since he has already complied with the court's order.

14 A review of the court's records reflects the following:

- 15 (1) On April 17, 2013, petitioner filed a petition for writ of habeas corpus, signed
16 and dated April 4, 2013, challenging a February 1, 2013 conviction in
17 Sacramento Municipal Court. This petition was assigned case number 2:13-
18 cv-0747, and was assigned to Judge Claire; and
19 (2) On May 15, 2013, petitioner filed a petition for writ of habeas corpus, signed
20 and dated April 23, 2013, challenging a February 1, 2013 conviction in
21 Sacramento Municipal Court. This petition was assigned case number 2:13-
22 cv-0964 and assigned to Judge Drozd.

23 In short, the reason why petitioner has received two information packets, and two case numbers,
24 is because he had filed two petitions. Petitioner is reminded that, if he wishes to pursue both
25 cases, he must comply with the orders issued in each case. If petitioner did not intend to initiate
26 two distinct proceedings, he may dismiss his later-filed case pursuant to Fed. R. Civ. P. 41.

27 In accordance with the above, IT IS ACCORDINGLY ORDERED that

- 28 1. Petitioner's May 15, 2013 letter (ECF No. 5) is construed as a request for an

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extension of time to comply with the court's April 23, 2013 order, and, so construed is granted;

2. Within 30 days of the filing date of this order, petitioner shall submit an affidavit in support of his request to proceed in forma pauperis, or the appropriate filing fee, failing which the action may be dismissed without prejudice; and

3. Petitioner's request for clarification (ECF No. 6) is granted, as above.

DATED: June 12, 2013



ALLISON CLANE
UNITED STATES MAGISTRATE JUDGE