UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID EDWARD FULLMORE,

Petitioner,

v.

KIM HOLLAND, Warden,

Respondent.[1]

No. 2:14-cv-1691 AC P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On July 24, 2014, petitioner was ordered to submit an application to proceed in forma pauperis. When petitioner filed an incomplete application, he was ordered on August 8, 2014, to submit a complete application. ECF Nos. 4, 6. Petitioner has now filed what appears to be a more complete request for leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. ECF No. 7.

However, examination of this action and the court's records reveals that the petitioner has previously filed a petition for relief in the same matter. (No. 2: 14-cv-0614 EFB). Therefore, the

[1] "A petitioner for habeas corpus relief must name the state officer having custody of him or her as the respondent to the petition. This person typically is the warden of the facility in which the petitioner is incarcerated. Brittingham v. United States, 982 F.2d 378, 379 (9th Cir.1992)." Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994) (citing Rule 2(a), 28 U.S.C. foll. § 2254). Petitioner has failed to name a respondent. Petitioner is housed at California Correctional Institution; therefore, the warden of that facility is the proper respondent, whose name the court has here supplied.

court will not rule on petitioner's in forma pauperis application. Pursuant to Local Rule 190(d), the above-captioned action will be reassigned to the Magistrate Judge[2] who is considering the prior petition.

The parties should be aware that reassigning this action under Local Rule 190(d) merely has the result that the action is assigned to the Magistrate Judge who is considering or has considered the prior petition; no consolidation of the actions is effected.

Accordingly, IT IS HEREBY ORDERED that:

1. The Clerk of the Court is directed to substitute the name of Kim Holland, Warden, as respondent in the docket of this case.

2. This action is reassigned to Magistrate Judge Edmund F. Brennan for all further proceedings; henceforth, the caption on documents filed in this action shall be shown as No. 2:14-1691 EFB; and

3. The Clerk of the Court shall make appropriate adjustment in the assignment of civil cases to compensate for this reassignment.

DATED: August 27, 2014

Allison Claire

ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

[2] There is as yet no district judge assignment in Case No. 2:14-cv-0614 EFB.