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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VERNON MCNEAL,
Plaintiff,
v.
UNKNOWN,
Defendants.

No. 2:14-cv-2121 KJN P

ORDER

Plaintiff, a state prisoner at Calipatria State Prison, has filed a letter to the court. No other pleadings have been filed by the plaintiff. It is unclear whether plaintiff seeks to file a civil rights complaint pursuant to 42 U.S.C. § 1983, or a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. If plaintiff is challenging the conditions of his confinement, he should file a civil rights complaint. If plaintiff is challenging the fact or duration of his confinement, he should file a petition for writ of habeas corpus.

In order to commence an action, plaintiff must file a complaint as required by Rule 3 of the Federal Rules of Civil Procedure, or a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Plaintiff must either pay the required filing fee or file an application requesting leave to proceed in forma pauperis.¹ See 28 U.S.C. §§ 1914(a), 1915(a). The court will not issue any

¹ If leave to file in forma pauperis is granted, plaintiff will still be required to pay the filing fee in a civil rights action but will be allowed to pay it in installments.

1 orders granting or denying relief until an action has been properly commenced. Therefore,
2 plaintiff's motion will be denied without prejudice. Plaintiff will be provided the opportunity to
3 file his complaint or petition, and to submit an application requesting leave to proceed in forma
4 pauperis or to submit the appropriate filing fee.

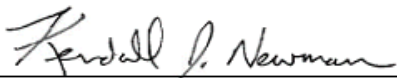
5 In accordance with the above, IT IS HEREBY ORDERED that:

6 1. Plaintiff's September 12, 2014 letter is denied without prejudice;

7 2. Plaintiff is granted thirty days from the date of service of this order to file a complaint
8 or a petition that complies with the requirements of the Civil Rights Act, the Federal Rules of
9 Civil Procedure, and the Local Rules of Practice; the complaint must bear the docket number
10 assigned this case; plaintiff must file an original and two copies of the complaint. Plaintiff shall
11 also submit, within thirty days from the date of this order, the application to proceed in forma
12 pauperis on the form provided by the Clerk of Court, or the appropriate filing fee.² Plaintiff's
13 failure to comply with this order will result in a recommendation that this matter be dismissed;
14 and

15 3. The Clerk of the Court is directed to send plaintiff the court's form for filing a civil
16 rights action, a petition for writ of habeas corpus, and the application to proceed in forma
17 pauperis by a prisoner.

18 Dated: September 23, 2014


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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26 _____
27 ² The filing fee for a civil rights action is \$400.00, comprised of the \$350.00 filing fee and a
28 \$50.00 administrative fee. If plaintiff is granted leave to proceed in forma pauperis, plaintiff is
not required to pay the \$50.00 administrative fee. The filing fee for an application for a writ of
habeas corpus is \$5.00.