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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES D. VILLACRES,
Petitioner,
v.
California CDCR, et al.,
Respondent.

No. 2:16-cv-0843 KJN P

ORDER

Petitioner, a state prisoner proceeding without counsel, is incarcerated at the California Health Care Facility (CHCF) in Stockton. Petitioner appears to seek habeas relief under 28 U.S.C. § 2254. This proceeding was referred to the undersigned by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

By order filed April 26, 2016, petitioner was directed to file an affidavit to proceed in forma pauperis pursuant to 28 U.S.C. § 1915, or to pay the appropriate filing fee. On May 16, 2016, petitioner wrote the court, stating that he has “sent two completed form [sic] pauperis forms signed and dated by the CHCF Trust Account administrator!” (ECF No. 4 at 1.) Petitioner claims that he enclosed a copy of his second submission to the court, which he alleges provides a “detailed record” of his financial status. (*Id.*) However, in this two page filing, the only attachment is petitioner’s one page request for interview seeking a second certificate of trust account statement on April 19, 2016, and to which staff responded on April 25, 2016: “Please see

1 the attached copy of the certified copy of the inmate statement report.” (ECF No. 4 at 2.)

2 However, there is no attachment and no page three.

3 In light of petitioner’s response, and in an abundance of caution, the court reviewed
4 petitioner’s initial 160 page filing. (ECF No. 1.) However, there is no application to proceed in
5 forma pauperis contained within such filing. The only document relating to his trust account is a
6 “Trust Account Withdrawal Order,” dated April 19, 2016, which was for “legal mail to federal
7 court: Sacramento, CA,” not for payment of the court’s filing fee. (ECF No. 1-2 at 2.)


8 In order to commence an action, petitioner must file a petition for writ of habeas corpus as
9 required by Rule 3 of the Rules Governing Section 2254 cases, and petitioner must either pay the
10 required filing fee or file an application requesting leave to proceed in forma pauperis.¹ See 28
11 U.S.C. §§ 1914(a), 1915(a). The court will not issue any orders granting or denying relief until
12 an action has been properly commenced. Unless petitioner submits an application requesting
13 leave to proceed in forma pauperis or submits the appropriate filing fee, this action will be
14 dismissed.

15 IT IS HEREBY ORDERED that:

16 1. Petitioner shall submit, within thirty days from the date of this order, the application to
17 proceed in forma pauperis on the form provided by the Clerk of Court, or the filing fee in the
18 amount of \$5.00. Petitioner’s failure to comply with this order will result in a recommendation
19 that this matter be dismissed; and

20 2. The Clerk of the Court is directed to send petitioner an application to proceed in forma
21 pauperis by a prisoner.

22 Dated: May 26, 2016

23 
24 _____
25 KENDALL J. NEWMAN
26 UNITED STATES MAGISTRATE JUDGE

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28 ¹ The court will accept a copy of the certified in forma pauperis form.