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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEMARIO WIGGINS,  
Petitioner,  
v.  
CLARK DUCART,  
Respondent.

No. 2:16-cv-1669 KJN P

ORDER

Petitioner, a state prisoner at Pelican Bay State Prison, has filed a document styled as motion for extension of time to file a petition for writ of habeas corpus. (ECF No. 1.) No other pleadings have been filed by the petitioner.

In order to commence an action, petitioner must file a petition for writ of habeas corpus as required by Rule 3 of the Rules Governing Section 2254 cases, and petitioner must either pay the required filing fee or file an application requesting leave to proceed in forma pauperis. See 28 U.S.C. §§ 1914(a), 1915(a). The court will not issue any orders granting or denying relief until an action has been properly commenced. Therefore, petitioner’s motion for an extension of time is denied without prejudice. Unless petitioner files a petition, and submits an application requesting leave to proceed in forma pauperis or submits the appropriate filing fee, this action will be dismissed.

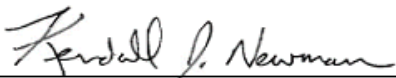
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1 Petitioner is advised that a **one year statute of limitations** is applicable to all claims  
2 presented in a federal habeas corpus petition. See 28 U.S.C. § 2244(d)(1); see also Mardesich v.  
3 Cate, 668 F.3d 1164 (9th Cir. 2012) (holding that the one year statute of limitations applied to  
4 each claim in a habeas petition on an individual basis). Accordingly, **petitioner is advised to file**  
5 **his federal habeas corpus petition as soon as possible.**

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

- 7 1. Petitioner's motion for extension of time (ECF No. 1) is denied without prejudice;
- 8 2. Within thirty days,<sup>1</sup> petitioner shall file a petition that complies with the requirements  
9 of the Rules Governing Section 2254 Cases, the Federal Rules of Civil Procedure, and the Local  
10 Rules of Practice; the petition must bear the docket number assigned this case; petitioner must file  
11 an original and two copies of the petition.
- 12 3. Petitioner shall also submit, within thirty days from the date of this order, the  
13 application to proceed in forma pauperis on the form provided by the Clerk of Court, or the filing  
14 fee in the amount of \$5.00.
- 15 4. Petitioner's failure to comply with this order will result in a recommendation that this  
16 matter be dismissed.
- 17 5. The Clerk of the Court is directed to send petitioner the court's form for filing a  
18 petition for writ of habeas corpus, and the application to proceed in forma pauperis by a prisoner.

19 Dated: August 5, 2016

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22 KENDALL J. NEWMAN  
23 UNITED STATES MAGISTRATE JUDGE

24 /wigg1669.nopetition

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28 <sup>1</sup> By setting this deadline, the court makes no finding or representation that the petition is not  
subject to dismissal as untimely. See Sossa v. Diaz, 729 F.3d 1225, 1231-35 (9th Cir. 2015).