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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TERRY LYNN PRENTICE,
Petitioner,
v.
KIM HOLLAND, Warden,
Respondent.

No. 2:16-cv-01872 MCE AC P

ORDER

Petitioner is a state prisoner proceeding pro se with a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. See ECF No. 1. Petitioner paid the filing fee, but now requests in forma pauperis status. Examination of his in forma pauperis application reveals that petitioner is unable to afford the costs of suit. Accordingly, the application to proceed in forma pauperis will be granted, see 28 U.S.C. § 1915(a), and petitioner’s filing fee (\$5.00) will be returned.

On November 10, 2016, respondent filed and served a motion to dismiss the petition on the grounds that it was filed beyond the one-year statute of limitations and contains unexhausted claims. See ECF No. 12. Petitioner’s opposition or statement of non-opposition was due within thirty days after service of respondent’s motion. See ECF No. 5 at 2, ¶ 3. Although petitioner subsequently inquired into the status of this action, see ECF No. 15, he has not responded to respondent’s motion.


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Good cause appearing, IT IS HEREBY ORDERED that:

1. Petitioner's request to file a late motion to proceed in forma pauperis, ECF No. 8, is granted.
2. Petitioner's motion to proceed in forma pauperis, ECF No. 9, is granted.
3. The Clerk of Court is directed to refund petitioner his filing fee in the amount of \$5.00.
4. The Clerk of Court is also directed to send petitioner, together with a copy of this order, a copy of respondent's motion to dismiss (7 pages), ECF No. 12.
5. Within twenty-one (21) days after service of this order, petitioner shall file and serve an opposition or statement of non-opposition to respondent's pending motion to dismiss.
6. Petitioner's failure to comply with this order will result in a recommendation that this action be dismissed without prejudice for failure to prosecute, pursuant to Federal Rule of Civil Procedure 41(b).

DATED: March 13, 2017



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE