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7   UNITED STATES DISTRICT COURT

8   FOR THE EASTERN DISTRICT OF CALIFORNIA

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10   NICHOLAS MARTIN CUMMINGS,   No. 2:16-cv-2572-EFB P

11   Petitioner,

12   v.   ORDER

13   PEOPLE OF CALIFORNIA,

14   Respondent.

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16   Petitioner proceeds without counsel and seeks a writ of habeas corpus pursuant to 28

17   U.S.C. § 2254. His petition is not signed, and he has neither paid the filing fee nor sought leave

18   to proceed in forma pauperis.

19   The court cannot conduct the required review of the petition because petitioner has not

20   signed it. *See* ECF No. 1 at 15. Rule 11 of the Federal Rules of Civil Procedure requires that

21   "[e]very pleading, written motion, and other paper . . . be signed by at least one attorney of record

22   in the attorney's name—or by a party personally if the party is unrepresented." Fed. R. Civ. P.

23   11(a). Because petitioner is not represented by counsel and did not sign the petition himself, it

24   will be disregarded.

25   Petitioner has not filed an in forma pauperis affidavit or paid the required filing fee

26   ($5.00). *See* 28 U.S.C. §§ 1914(a); 1915(a). He will be provided the opportunity to either submit

27   the appropriate affidavit in support of a request to proceed in forma pauperis or submit the

28   appropriate filing fee.

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1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The Clerk of the Court shall strike the petition (ECF No. 1) from the docket.

3 2. Within thirty days, petitioner shall file a signed petition using the form employed by

4 this court and stating all claims and prayers for relief.

5 3. Petitioner shall submit, within thirty days from the date of this order, an affidavit in

6 support of his request to proceed in forma pauperis or the appropriate filing fee.

7 4. Petitioner's failure to comply with this order may result in this action being dismissed.

8 5. The Clerk of the Court is directed to send petitioner the court's form application for

9 writ of habeas corpus and application for leave to proceed in forma pauperis.

10 DATED: November 3, 2016.

11 _____
    EDMUND F. BRENNAN
12 UNITED STATES MAGISTRATE JUDGE

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