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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 JAYSON MAGLAYA,

12 Petitioner,

13 v.

14 PEOPLE OF THE STATE OF
15 CALIFORNIA,

16 Respondent.

No. 2:16-cv-2694 CKD P

ORDER

17 Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas
18 corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma pauperis.

19 Examination of the in forma pauperis application reveals that petitioner is unable to afford
20 the costs of suit. Accordingly, the application to proceed in forma pauperis will be granted. See
21 28 U.S.C. § 1915(a).

22 Petitioner was convicted of attempted murder with the use of a dangerous or deadly
23 weapon, for which the Nevada County Superior Court imposed a sentence of 28 years to life.
24 Briefly, petitioner asserts that: (1) one of the jurors was the victim of a burglary for which
25 petitioner had been convicted; 2) petitioner never spoke of killing the victim, whose wounds were
26 not severe; and (3) there was no evidence that petitioner used a weapon. (ECF No. 1.)

27 Habeas Rule 2(c) requires that a petition 1) specify all grounds of relief available to the
28 petitioner; 2) state the facts supporting each ground; and 3) state the relief requested. Notice


1 pleading is not sufficient; rather, the petition must state facts that point to a real possibility of
2 constitutional error.” Rule 4, Advisory Committee Notes, 1976 Adoption; see Blackledge v.
3 Allison, 431 U.S. 63, 75 n. 7 (1977). Allegations in a petition that are vague, conclusory, or
4 palpably incredible are subject to summary dismissal. Hendricks v. Vasquez, 908 F.2d 490, 491
5 (9th Cir. 1990).

6 Here, the petition does not meet the pleading requirements of Rule 2(c). Accordingly, the
7 court will summarily dismiss the petition. Petitioner will be granted thirty days to file an
8 amended petition that complies with Rule 2(c) and all other applicable rules. Petitioner is
9 encouraged to attach any state court opinion that addresses the claims he now raises in federal
10 court, in order to clarify his claims.

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

- 12 1. Petitioner’s request for leave to proceed in forma pauperis is granted;
- 13 2. The petition is dismissed without prejudice pursuant to Habeas Rule 2(c);
- 14 3. Petitioner is granted thirty days from the date of this order to file an amended petition
15 as described above;
- 16 4. Petitioner’s failure to timely file an amended petition will result in dismissal of this
17 action.

18 Dated: January 26, 2017

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20 CAROLYN K. DELANEY
21 UNITED STATES MAGISTRATE JUDGE
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