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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

S. DEANDA,

Petitioner,

v.

UNKNOWN,

Respondent.

No. 2:16-cv-2755 GGH P

ORDER

Petitioner, a state prisoner at High Desert State Prison, has filed a document styled as a letter seeking to preserve his time limit to contest his sentence. 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 will be denied without prejudice. See McDade v. Warden, 2010 WL 4795377 (C.D. Cal. 2010); Soto v. Warden, 2009 WL 1705471 (C.D. Cal. 2009). Petitioner will be provided the opportunity to file his petition, and to submit an application requesting leave to proceed in forma pauperis or to submit the appropriate filing fee.

In addition, petitioner has requested the appointment of counsel. There currently exists no

1 absolute right to appointment of counsel in habeas proceedings. See Nevius v. Sumner, 105 F.3d  
2 453, 460 (9th Cir. 1996). However, 18 U.S.C. § 3006A authorizes the appointment of counsel at  
3 any stage of the case “if the interests of justice so require.” See Rule 8(c), Fed. R. Governing §  
4 2254 Cases. In the present case, the court does not find that the interests of justice would be  
5 served by the appointment of counsel at the present time.

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

7 1. Petitioner’s letter (ECF No. 1) is denied without prejudice;

8 2. Petitioner is granted thirty days from the date of service of this order to file a petition  
9 that complies with the requirements of the Rules Governing Section 2254 Cases, the Federal  
10 Rules of Civil Procedure, and the Local Rules of Practice; the petition must bear the docket  
11 number assigned this case; petitioner must file an original and two copies of the petition.

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

16 3. The Clerk of the Court is directed to send petitioner the court’s form for filing a  
17 petition for writ of habeas corpus, and the application to proceed in forma pauperis by a prisoner;  
18 and

19 4. Petitioner’s motion for appointment of counsel (ECF No. 1) is denied without  
20 prejudice to a renewal of the motion at a later stage of the proceedings.

21 Dated: December 12, 2016

22 /s/ Gregory G. Hollows  
23 UNITED STATES MAGISTRATE JUDGE

24 /mp  
25 dean2755.nopetition+110 order