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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 ALEX LEONARD AZEVEDO,

No. 2:17-CV-0457-CMK-P

12 Petitioner,

13 vs.

ORDER

14 COLUSA COUNTY,

15 Respondent.
16 _____/

17 Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of
18 habeas corpus pursuant to 28 U.S.C. § 2254.

19 Petitioner seeks leave to proceed in forma pauperis (Doc. 4). Petitioner has
20 submitted the affidavit required by 28 U.S.C. § 1915(a) showing that petitioner is unable to
21 prepay fees and costs or give security therefor. The request will be granted.

22 Pending before the court is petitioner's petition (Doc. 1). "A petitioner for habeas
23 corpus relief must name the state officer having custody of him or her as the respondent to the
24 petition." Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994); see also Rule
25 2(a), Federal Rules Governing Section 2254 Cases. Because petitioner has not named the
26 appropriate state officer, petitioner will be provided leave to amend to correct this technical

1 defect by naming the correct respondent. See Stanley, 21 F.3d at 360. Petitioner is warned that
2 failure to comply with this order may result in the dismissal of this action. See Local Rule 110.

3 Petitioner has filed a document entitled “Summons Motion,” in which he appears
4 to seek an order directing service of his petition. Because, as discussed above, petitioner has
5 failed to name the correct respondent, this request will be denied at this time. Upon filing of a
6 petitioner naming the correct respondent and stating cognizable claims, the court will direct
7 service on the appropriate agency.

8 Finally, petitioner seeks the appointment of counsel (Doc. 5). There currently
9 exists no absolute right to appointment of counsel in habeas proceedings. See Nevius v. Sumner,
10 105 F.3d 453, 460 (9th Cir. 1996). However, 18 U.S.C. § 3006A authorizes the appointment of
11 counsel at any stage of the case “if the interests of justice so require.” See Rule 8(c), Fed. R.
12 Governing § 2254 Cases. In the present case, the court does not find that the interests of justice
13 would be served by the appointment of counsel at the present time.

14 Accordingly, IT IS HEREBY ORDERED that:

15 1. Petitioner’s motion for leave to proceed in forma pauperis (Doc. 4) is
16 granted;

17 2. Petitioner’s petition for writ of habeas corpus (Doc. 1) is dismissed with
18 leave to amend;

19 3. Petitioner’s “Summons Motion” (Doc. 8) is denied;

20 4. Petitioner shall file an amended petition on the form employed by this
21 court, and which names the proper respondent and states all claims and requests for relief, within
22 30 days of the date of this order; and

23 5. Petitioner’s motion for appointment of counsel (Doc. 5) is denied without
24 prejudice to renewal, at the earliest, after a response to the petition has been filed; and

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6. The Clerk of the Court is directed to send petitioner the court's form habeas corpus application.

DATED: May 24, 2017


CRAIG M. KELLISON
UNITED STATES MAGISTRATE JUDGE