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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HARWINDER SINGH SANDHU,
Petitioner,
v.
RON DAVIS,
Respondent.

No. 2:17-cv-0482 DB P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Petitioner has consented to the jurisdiction of a magistrate judge. (ECF No. 4.)

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

The court's records reveal that petitioner has previously filed an application for a writ of habeas corpus attacking the conviction and sentence challenged in this case. The previous application was filed on October 20, 2014, and was denied on the merits on January 12, 2015. See Sandhu v. Chappell, No. 2:14-cv-2459 KJN (E.D. Cal.). Before petitioner can proceed with the instant application, he must move in the United States Court of Appeals for the Ninth Circuit

1 for an order authorizing the district court to consider the application. 28 U.S.C. § 2244(b)(3).
2 Therefore, petitioner's application must be dismissed without prejudice to its re-filing upon
3 obtaining authorization from the United States Court of Appeals for the Ninth Circuit.

4 In accordance with the above, IT IS HEREBY ORDERED as follows:

- 5 1. Petitioner's application to proceed in forma pauperis (ECF No. 3) is granted; and
- 6 2. This action is dismissed without prejudice.

7 Dated: August 2, 2017

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11 DEBORAH BARNES
12 UNITED STATES MAGISTRATE JUDGE

13 DLB:9
14 DLB1/prisoner-habeas/sand0482.succ
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