

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROLANDO ARISMENDEZ,
Petitioner,
v.
M.L. MUNIZ,
Respondent.

No. 2:17-cv-1116-EFB P

ORDER

Mr. Arismendez is a state prisoner proceeding without counsel. This action was opened when he filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 1. However, he has not properly commenced a civil action because the petition is not signed and he has neither paid the filing fee nor sought leave to proceed in forma pauperis. See Fed. R. Civ. P. 3; Rule 3, Rules Governing § 2254 Cases; *Woodford v. Garceau*, 538 U.S. 202, 203 (2003).

The court cannot conduct the required review of the petition because Mr. Arismendez has not signed it. See ECF No. 1. Rule 11 of the Federal Rules of Civil Procedure requires that “[e]very pleading, written motion, and other paper . . . be signed by at least one attorney of record in the attorney’s name—or by a party personally if the party is unrepresented.” Fed. R. Civ. P. 11(a). Because Mr. Arismendez is not represented by counsel and did not sign the petition himself, it will be disregarded.

////

1 If Mr. Arismendez wishes to challenge a judgment of conviction entered against him in
2 state court, he must file a signed application for a writ of habeas corpus using this court's form
3 petition. In addition, Mr. Arismendez must either file an in forma pauperis affidavit or pay the
4 required filing fee (\$5.00). *See* 28 U.S.C. §§ 1914(a); 1915(a). Until Mr. Arismendez submits a
5 signed petition and either pays the filing fee or meets the requirements of 28 U.S.C. § 1915(a),
6 there is simply no case before the court.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. The Clerk of the Court shall strike the petition (ECF No. 1) from the docket.
- 9 2. Within 30 days, Mr. Arismendez shall file a signed petition using the form employed
10 by this court and stating all claims and prayers for relief.
- 11 3. Within 30 days of the date of this order, Mr. Arismendez shall either pay the \$5 filing
12 fee or submit a complete application for leave to proceed in forma pauperis using the
13 form provided.
- 14 4. Mr. Arismendez's failure to comply with this order may result in this case being
15 closed.
- 16 5. The Clerk of the Court is directed to send Mr. Arismendez the court's form application
17 for writ of habeas corpus and application for leave to proceed in forma pauperis.

18 DATED: June 1, 2017.

19 
20 EDMUND F. BRENNAN
21 UNITED STATES MAGISTRATE JUDGE
22
23
24
25
26
27
28