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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SHAJIA AYOBI,  
Petitioner,  
v.  
ESPINOSA, Warden,  
Respondent.

No. 2:17-cv-02349 AC P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis. Petitioner, who is incarcerated at the Central California Women’s Facility, challenges her 2013 conviction in the Sacramento County Superior Court.

Examination of petitioner’s filings reveals the following problems. Petitioner’s application to proceed in forma pauperis is outdated; plaintiff must submit a new application with current information. Further, the petition is not set forth on the form used in this district for seeking a writ of habeas corpus and, more importantly, appears improperly to challenge the ruling of the Superior Court on collateral review. Petitioner must exhaust her claims in the California Supreme Court before bringing them in federal court.<sup>1</sup> While it may be that petitioner exhausted

<sup>1</sup> The exhaustion of state remedies is a prerequisite to a federal court’s jurisdiction to consider claims presented in a habeas corpus petition. See 28 U.S.C. § 2254(b); see also Rose v. Lundy,

1 her claims in the California Supreme Court on direct review, see e.g. ECF No. 1 at 22, this is not  
2 clear from the present petition.

3 For these reasons, petitioner will be directed to file an amended petition for writ of habeas  
4 corpus, and a new application to proceed in forma pauperis, on the forms provided herewith.

5 Therefore, IT IS HEREBY ORDERED that:

6 1. Petitioner's application to proceed in forma pauperis is denied with leave to file a new  
7 application, on the form provided herewith, within thirty days after service of this order;

8 2. Petitioner's petition for a writ of habeas corpus is dismissed with leave to file an  
9 amended petition, on the form provided herewith, within thirty days after service of this order;<sup>2</sup>

10 3. Failure to timely comply with this order will result in a recommendation that this  
11 action be dismissed without prejudice; and

12 4. The Clerk of the Court is directed to send petitioner, together with a copy of this order,  
13 the court's forms for requesting leave to proceed in forma pauperis by a prisoner, and for filing a  
14 petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

15 DATED: November 15, 2017

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18 ALLISON CLAIRE  
19 UNITED STATES MAGISTRATE JUDGE  
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24 455 U.S. 509 (1982). A petitioner satisfies the exhaustion requirement by providing the highest  
25 state court (in California, the California Supreme Court) with a full and fair opportunity to  
26 consider all of his claims before presenting them to the federal court. Picard v. Connor, 404 U.S.  
27 270, 276 (1971), Middleton v. Cupp, 768 F.2d 1083, 1086 (9th Cir. 1985), cert. denied, 478 U.S.  
28 1021 (1986).

<sup>2</sup> By setting this deadline the court is making no finding or representation that the petition is not  
subject to dismissal as untimely.