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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SALVADOR BENJAMIN VASQUEZ,

Petitioner,

v.

SCOTT FRAUENHEIM,

Respondent.

No. 2:17-cv-2579 KJN 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. Petitioner has not, however, filed an in forma pauperis affidavit or paid the required filing fee (\$5.00). See 28 U.S.C. §§ 1914(a); 1915(a). Therefore, petitioner will be provided the opportunity to either submit the appropriate affidavit in support of a request to proceed in forma pauperis or submit the appropriate filing fee.

In addition, on October 23, 2017, petitioner filed a motion to stay and abey his federal habeas petition pursuant to Rhines v. Weber, 544 U.S. 269 (1995), in order to exhaust state court remedies on his ineffective assistance of counsel claims. (ECF No. 2.) Due to the overwhelming demands on the court’s docket, this motion cannot be adjudicated immediately. However, petitioner is not required to await resolution of the pending motion before returning to state court to properly exhaust his state court remedies. In the event that petitioner exhausts any claims in

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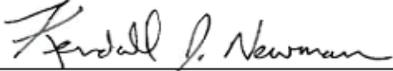
1 the California Supreme Court prior to this court's resolution of the pending motion for stay,  
2 petitioner is advised to file a notice of exhaustion in this court.

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

4 1. Petitioner shall submit, within thirty days from the date of this order, an affidavit in  
5 support of his request to proceed in forma pauperis or the appropriate filing fee; petitioner's  
6 failure to comply with this order will result in a recommendation that this action be dismissed;  
7 and

8 2. The Clerk of the Court is directed to send petitioner a copy of the in forma pauperis  
9 form used by this district.

10 Dated: December 13, 2017

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13 KENDALL J. NEWMAN  
14 UNITED STATES MAGISTRATE JUDGE

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