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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH G. McCARTY,
Petitioner,
v.
SCOTT KERNAN,
Respondents.

No. 2:18-cv-0037 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, the court observes that the petition is addressed to the California Supreme Court. Review of the website for the California Supreme Court does not reflect that petitioner filed a petition challenging the December 7, 2017 denial by the state court of appeal.¹ If

¹ The court may take judicial notice of facts that are “not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned,” Fed. R. Evid. 201(b), including undisputed information posted on official websites. Daniels-Hall v. National Education Association, 629 F.3d 992, 999 (9th Cir. 2010). It is appropriate to take judicial notice of the docket sheet of a California court. White v. Martel, 601 F.3d 882, 885 (9th Cir. 2010). The address of the official website of the California


1 petitioner intended for his petition to be filed in the California Supreme Court, he must mail his
2 petition directly to the Supreme Court of California, 350 McAllister Street, San Francisco, CA
3 94102-4797.² If the instant petition was intended for the California Supreme Court, petitioner
4 may ask the court to voluntarily dismiss this action.

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

6 1. Petitioner shall submit, within thirty days from the date of this order, an affidavit in
7 support of his request to proceed in forma pauperis or the appropriate filing fee; or, if petitioner
8 intended his filing for the California Supreme Court, he may file a request to voluntarily dismiss
9 this action. Petitioner's failure to comply with this order will result in a recommendation that this
10 action be dismissed; and

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

13 Dated: January 19, 2018

14 
15 KENDALL J. NEWMAN
16 UNITED STATES MAGISTRATE JUDGE

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24 state courts is www.courts.ca.gov. Here, the California Supreme Court website only reflects the
25 petition filed in S239725, which was denied on March 1, 2017.

26 ² The exhaustion of state court remedies is a prerequisite to the granting of a petition for writ of
27 habeas corpus. 28 U.S.C. § 2254(b)(1). A petitioner satisfies the exhaustion requirement by
28 providing the highest state court with a full and fair opportunity to consider all claims before
presenting them to the federal court. Picard v. Connor, 404 U.S. 270, 276 (1971); Middleton v.
Cupp, 768 F.2d 1083, 1086 (9th Cir. 1985), cert. denied, 478 U.S. 1021 (1986).