Frank v. Clay Doc. 5

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

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| RAYMOND TIMOTHY FRANK,<br>Petitioner,<br>v.<br>IVAN D. CLAY,<br>Respondent. | No. C 08-4835 MMC (PR)<br>**ORDER OF DISMISSAL**<br>**(Docket Nos. 2 & 3)** |

On October 22, 2008, petitioner, a California prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. That same date, the Court notified petitioner in writing that the action was deficient due to petitioner's failure to pay the requisite filing fee or, instead, to submit a completed court-approved in forma pauperis ("IFP") application. In said notice, petitioner was advised that his failure to pay the filing fee or, alternatively, to file a completed IFP application, within thirty days, would result in dismissal of the action.

More than thirty days have passed since the deficiency notice and petitioner has not filed a completed IFP application, paid the filing fee, or otherwise responded to the deficiency notice. Accordingly, the above-titled action is hereby DISMISSED without prejudice, and petitioner's incomplete application to proceed IFP and motion for appointment of counsel are hereby DENIED as moot.

This order terminates Docket Nos. 2 and 3.

The Clerk shall close the file.

IT IS SO ORDERED.

DATED: December 4, 2008

MAXINE M. CHESNEY
United States District Judge

United States District Court
For the Northern District of California

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