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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAMOODY TANKSLEY,
Petitioner,

No. C 08-4935 MHP (pr)

ORDER OF DISMISSAL

v.

MONTEREY U.S. COURT, etc.;
et al.,Respondents.
_____ /

This pro se habeas action was filed on October 28, 2008, at which time the court notified petitioner in writing that the action was deficient due to the failure to pay the filing fee or furnish a completed and signed court-approved in forma pauperis application – specifically, that he had not included a trust account statement and signed certificate of funds for his prisoner's trust account statement. Petitioner was advised that failure to pay the fee or file the application materials within thirty days would result in dismissal of the action. Petitioner did not pay the filing fee or submit the materials needed to complete his in forma pauperis application. The action is DISMISSED without prejudice for failure to pay the filing fee or submit a completed in forma pauperis application. Petitioner may file a new action, but should include a filing fee or an in forma pauperis application with a new complaint to commence that new action.

The petition is dismissed for the additional reason that it is incomprehensible. A claim that is incomprehensible may be dismissed as frivolous as it is without an arguable basis in law. See Jackson v. Arizona, 885 F.2d 639, 641 (9th Cir. 1989). To the extent the

1 petitioner wants to challenge a conviction or sentence from the Kern County Superior Court,
2 he must file his petition in the U.S. District Court for the Eastern District of California in
3 Sacramento, because Kern County is in that district and is the proper venue for such a
4 challenge. See 28 U.S.C. § 2241(d); N. D. Cal. Habeas Local Rule 2254-3(b).

5 Finally, petitioner has requested information about Case No. 08-CV-01391-DLB. That
6 is the case number that was assigned in the Eastern District of California to the action that
7 was then transferred to the Northern District of California and was assigned a new case
8 number, i.e., Tanksley v. CDC Salinas Valley State Prison, C 08-5009 MHP.

9 The clerk shall close the file.

10 IT IS SO ORDERED.

11 Dated: March 3, 2009



Marilyn Hall Patel
United States District Judge

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