IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

WARREN KING,

Petitioner,

v.

CALIFORNIA STATE PRISON,

Respondents.

_____/

No. C 13-3269 JSW (PR)

ORDER OF DISMISSAL; GRANTING LEAVE TO PROCEED IN FORMA PAUPERIS

(Docket No. 4)

This habeas action was opened based on a letter the Court received from Petitioner on July 15, 2013, in which he requested an "abeyance." Petitioner indicated that he was "presently" filing a habeas petition in the state courts claiming that his appellate attorney was ineffective. On the day the letter was received, the Clerk notified Petitioner that he must file a petition within thirty days or the case would be dismissed. Along with the notice, Petitioner was mailed the Court's form habeas petition, instructions for completing it, and a stamped envelope with the Court's address printed on it. More than thirty days have passed and no response has been received. Without a petition or other pleading, including such basic information as where Plaintiff was convicted, the charges he faced and was convicted of, the state court remedies he has exhausted, and his grounds for relief, the Court has no case or controversy to adjudicate. *See Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 471 (1982). Accordingly, this case is DISMISSED without prejudice to Petitioner filing a petition for a writ of habeas corpus in a new case.

Rule 11(a) of the Rules Governing Section 2254 Cases now requires a district court to rule on whether a Petitioner is entitled to a certificate of appealability in the same order in which the petition is decided. Petitioner has failed to make a substantial showing that a reasonable jurist would find this Court's dismissal of this action debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Consequently, no certificate of appealability is warranted in this case.

In light of Petitioner's lack of funds, his application for leave to proceed in forma pauperis is GRANTED (docket number 4).

IT IS SO ORDERED.

DATED: October 1, 2013

JEFFREY S. WHITE
United States District Judge

UNITED STATES DISTRICT COURT

FOR THE

NORTHERN DISTRICT OF CALIFORNIA

WARREN KING,

Plaintiff,

v.

CALIFORNIA STATE PRISON,

Defendant.

_____/

Case Number: CV13-03269 JSW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 1, 2013, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Warren King
CSP-Los Angeles
P.O. Box 4670
D43943
Lancaster, CA 93539

Dated: October 1, 2013

Jennifer Ottolini

Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk