

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEO SCHWARTZENBERGER,  
Petitioner,

No. C 10-01137 SBA (PR)

**ORDER OF DISMISSAL**

v.

F. GONZALES, Acting Warden,  
Respondent.

This action was opened in error when the Court received a habeas petition form from Petitioner that was intended to be a copy of the petition filed in a previously-filed action -- Case No. C 10-0858 SBA (PR). He has also filed a motion for leave to proceed in forma pauperis (IFP).

Petitioner currently has two separate habeas actions pending, although he meant to file only one action. Accordingly, the present action is DISMISSED because it was opened in error.

The Court will review his petition in a separate written Order in Case No. C 10-0858 SBA (PR).

Accordingly, the Clerk of the Court shall ADMINISTRATIVELY CLOSE the case and TERMINATE all pending motions. The present action is DISMISSED because it was opened in error. Petitioner shall file no further documents in this action and shall file any documents concerning his habeas action in Case No. C 10-0858 SBA (PR).

The IFP application is DENIED as moot. No filing fee is due. The Clerk shall close the file.

IT IS SO ORDERED.

DATED: 7/29/10

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

LEO SCHWARTZENBERGER,

Plaintiff,

v.

F GONZALES et al,

Defendant.

Case Number: CV10-01137 SBA

**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 July 30, 2010, 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.

Leo Schwartzenberger V-62320  
California Correctional Institution  
P.O. Box 608  
Tehachapi, CA 93581

Dated: July 30, 2010

Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk