

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARNEL F. SALAGUBANG,
Petitioner,

No. C 11-0027 SBA (PR)

ORDER OF DISMISSAL

v.

RANDY GROUNDS, Warden,
Respondent.

This action was opened in error when the Court received a habeas petition form from Petitioner and a \$5.00 filing fee that were intended to be filed in a previously-filed action -- Case No. C 10-5870 SBA (PR). Petitioner filed a petition in Case No. C 10-5870 SBA (PR); however, he did not pay the filing fee or file a completed prisoner's in forma pauperis application in that action. He was sent a notice in Case No. C 10-5870 SBA (PR) directing him to either pay the filing fee or file a completed prisoner's in forma pauperis application. The Clerk sent Petitioner a blank in forma pauperis application and told him that he must pay the fee or return the completed application within thirty days or his action would be dismissed. On January 5, 2011, Petitioner filed a Motion for an Extension of Time to Pay the Filing Fee in Case No. 10-5870 SBA (pr). On January 12, 2011, Petitioner filed a "Notice of Error in Filing; Request Dismissal of Petition," also in Case No. 10-5870 SBA (pr).

Petitioner filed a duplicate copy of his habeas petition and the filing fee; however, he did not indicate that they were to be filed in Case No. C 10-5870 SBA (PR). Therefore, as mentioned above, a new action was opened.

Petitioner currently has two separate habeas actions pending, although he meant to file only one action. Accordingly, the Clerk is directed to remove the duplicate copy of his petition form (docket no. 1) and his \$5.00 filing fee from this action. The Clerk is then directed to file them in his previously-filed action, Case No. C 10-5870 SBA (PR). The Clerk is further directed to mark the duplicate copy of his petition form and the \$5.00 filing fee as filed on the dates they were received

United States District Court
For the Northern District of California


1 by the Court. Because the \$5.00 filing fee has been paid, Petitioner's Motion for an Extension of
2 Time to Pay the Filing Fee (docket no. 4 in Case No. 10-5870 SBA (pr)) is TERMINATED as moot.

3 The Court will review his petition in a separate written Order in Case No. C 10-5870 SBA
4 (PR).

5 The present action is DISMISSED because it was opened in error. No filing fee is due. The
6 Clerk shall close the file.

7 IT IS SO ORDERED.

8 Dated: _____3/1/11_____


SAUNDRA BROWN ARMSTRONG
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ARNEL SALAGUBANG,

Plaintiff,

v.

RANDY GROUNDS et al,

Defendant.

Case Number: CV11-00027 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 March 3, 2011, 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.

Arnel F. Salagubang E-61582
Salinas Valley State Prison
P.O. Box 689
Soledad, CA 93960-0689

Dated: March 3, 2011

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