

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

MANUEL ARREOLA.

No. C 12-06512 YGR (PR)

Petitioner,

ORDER OF DISMISSAL WITHOUT PREJUDICE

V.

OFFICER CRABTREE.

Respondent.

Petitioner, a state prisoner, filed a document captioned "Petition For A Writ of Habeas

Corpus." He also filed an application to proceed *in forma pauperis* (IFP).

In an Order dated February 19, 2013, after conducting a preliminary review of the petition, the Court found that the petition did not challenge either the fact of Petitioner's conviction or the length of his sentence. Instead, the Court found that the petition related to the conditions of his confinement. The Court dismissed the petition with leave to amend and granted Petitioner twenty-eight days to "file a civil rights complaint on the attached civil rights complaint form, stating his claims for relief, if he wishes to go forward with this action as a civil rights action." (Feb. 19, 2013 Order at 2.) The Court further informed Petitioner that the failure to file a completed civil rights complaint would result in the dismissal of this action without prejudice.

In its February 19, 2013 Order, the Court reviewed Petitioner's pending IFP application and determined that because Petitioner had originally filed this case as a habeas corpus action, his IFP application should be denied without prejudice to filing a new application or paying the full \$350.00 filing fee for a civil rights action. The Court further instructed Petitioner to "pay the \$350.00 filing fee, or file an application for leave to proceed IFP, before this action may proceed." (*Id.* at 3.) The Court also informed Petitioner that the failure "to pay the filing fee or file the requisite documents within the twenty-eight-day deadline shall result in dismissal of this action without prejudice." (*Id.* at 4.)

1 On March 22, 2013, Petitioner filed a motion for a twenty-eight-day extension of time up to
2 and including April 19, 2013 to "properly file and amend his complaint." (Pet'r Mar. 22, 2013 Mot.
3 for EOT at 1.) Petitioner did not request an extension of time to pay the \$350.00 filing fee or file a
4 new application for leave to proceed IFP.

5 In an Order dated April 8, 2013, the Court granted Plaintiff's request for an extension of time
6 to file his complaint up to and including April 19, 2013.

7 The deadlines have passed, and Petitioner has neither filed a complaint by April 19, 2013 nor
8 paid the filing fee/completed a new IFP application within the original twenty-eight-day deadline.

9 **IT IS HEREBY ORDERED THAT** this action is **DISMISSED WITHOUT PREJUDICE.**
10 The Clerk of the Court shall enter judgment, terminate all pending motions, and close the file.

11 **IT IS SO ORDERED.**

12 **DATED:** April 29, 2013



YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

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