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

HERBERT DIAZ,)	
)	
Petitioner,)	No. C 06-06912 JW (PR)
)	
vs.)	ORDER REOPENING HABEAS
)	CORPUS ACTION
B. CURRY, Warden,)	
)	
Respondent.)	

On February 5, 2007, the court dismissed this pro se habeas corpus action because petitioner, a state prisoner, had failed to timely pay the filing fee. Petitioner has asked that the matter be reinstated. Petitioner claims that he paid the fee in accordance with the clerk’s notice filed November 6, 2006. Petitioner attached a copy of a “check status update” from his inmate trust account, which shows that a check to the US District Court in the amount of \$5.00 printed on December 8, 2006 remains outstanding. Upon investigation, the clerk of the court has stated that no payment for filing fee has been received from petitioner to the date of petitioner’s motion for reconsideration, March 29, 2007. It appears that the check issued from

1 petitioner's inmate trust account for filing fees has been lost in transit.


2 For the foregoing reasons, and for good cause shown:

3 1) The order of dismissal entered February 5, 2007, is vacated.

4 2) Within **thirty (30) days** of the date of this order, petitioner must pay
5 the \$5.00 filing fee or file a completed application for leave to proceed in forma
6 pauperis. Failure to comply with this order will result in a dismissal of this habeas
7 corpus action.

8 3) The clerk shall reopen the file. The clerk is further directed to provide
9 petitioner with a copy of the application to proceed in forma pauperis, along with a
10 return envelope and instructions.

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13 DATED: June 13 2007


14 JAMES WARE
15 United States District Judge
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