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

JAMES PAUL BAXTER,	)	No. C 08-05289 JW (PR)
Petitioner,	)	ORDER OF DISMISSAL
vs.	)	
ATTORNEY GENERAL, et al.,	)	
Respondent(s).	)	
_____	)	

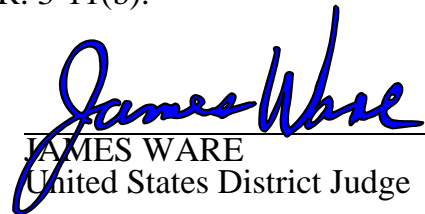
Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, on November 21, 2008. On the same day, the clerk of the court sent a notice to petitioner that he must either submit an application to proceed in forma pauperis or pay the filing fee within thirty days or the action would be dismissed. On December 8, 2008, petitioner filed an in forma pauperis application which was deficient for failure to attach necessary documents. (See Docket No. 7) Petitioner also filed a letter on December 5, 2008, indicating that he could afford to pay the \$5.00 filing fee. On April 29, 2009, the Court granted petitioner an extension of thirty days to pay the filing fee or file a complete in forma pauperis application. A copy of the order was mailed to petitioner the same day. On May 11, 2009, the mail to petitioner was returned as undeliverable.

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Pursuant to Northern District Local Rule 3-11, a party proceeding pro se whose address changes while an action is pending must promptly file and serve upon all opposing parties a notice of change of address specifying the new address. See L.R. 3- 11(a ). The Court may, without prejudice, dismiss a complaint or strike an answer when: (1) mail directed to the attorney or the pro se party by the court has been returned to the court as not deliverable, and (2) the court fails to receive within sixty days of this return a written communication from the attorney or pro se party indicating a current address. See L.R. 3-11(b).

It has now been more than sixty days since the mail sent to petitioner was returned as undeliverable on May 11, 2009. The Court has not received a notice from petitioner of a new address. Accordingly, this action is DISMISSED without prejudice. See Fed. R. Civ. P. 41(b); L.R. 3-11(b).

DATED: September 3, 2009

  
\_\_\_\_\_  
JAMES WARE  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

JAMES PAUL BAXTER,  
Plaintiff,

Case Number: CV08-05289 JW

**CERTIFICATE OF SERVICE**

v.

ATTORNEY GENERAL FOR THE STATE  
OF CALIFORNIA et al.,

Defendants.  
\_\_\_\_\_ /

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 9/11/2009, 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.

James Paul Baxter V-08374  
Martinez Detention Facility  
901 Court Street  
Martinez, Ca 94553

Dated: 9/11/2009

Richard W. Wieking, Clerk  
/s/ By: Elizabeth Garcia, Deputy Clerk