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

RICHARD L. BURNS,	)	No. C 11-06301 EJD (PR)
	)	
Petitioner,	)	ORDER OF DISMISSAL
	)	
vs.	)	
	)	
	)	
GARY SWARTHOUT, Warden,	)	
	)	
Respondent.	)	

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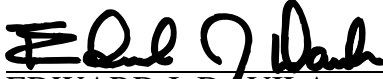
Petitioner, a California inmate, seeks petition in pro se for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner filed a motion for leave to proceed in forma pauperis (“IFP”). (See Docket No. 3.) Based on the supporting documents, the Court denied leave to proceed IFP because Petitioner did not show an adequate level of poverty as the average monthly deposit in his account was \$104.67 and the average monthly balance in his account was \$74.17, for the six-months preceding the filing of this petition. (See Docket No. 7.) On April 20, 2012, the Court directed Petitioner to pay the \$5 filing fee within thirty days of the order, or face dismissal of this action for failure to pay the filing fee. (See id.) On May 8, 2012, the Clerk of the Court resent the Order Denying Leave to Proceed In Forma Pauperis to Petitioner when the mailing was returned on May 7, 2012, as

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undeliverable based on an addressing error. (See Docket No. 8.) There has since been no indication that Petitioner did not receive the second mailing.

The time provided for paying the filing fee has since passed, and Petitioner has not complied. Accordingly, this case is DISMISSED without prejudice for failure to pay the filing fee. The Clerk shall terminate any pending motions and close the file.

DATED: 6/21/2012

  
EDWARD J. DAVILA  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

RICHARD L BURNS,  
Petitioner,

Case Number: CV11-06301 EJD  
**CERTIFICATE OF SERVICE**

v.

GARY SWARTHOUT, Warden,  
Respondent.

\_\_\_\_\_/

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 6/25/2012, 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.

Richard L. Burns AA-7046  
California State Prison, Solano  
P. O. Box 4000  
Vacaville, CA 65696-4000

Dated: 6/25/2012

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