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United States District Court
For the Northern District of California

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

JOSE CARRANZA,)	No. C 12-01169 EJD (PR)
)	
Petitioner,)	ORDER OF DISMISSAL;
)	GRANTING MOTION FOR LEAVE
vs.)	TO PROCEED <i>IN FORMA</i>
)	<i>PAUPERIS</i> ; DENYING OTHER
G. D. LEWIS, Warden,)	MOTIONS
)	
Respondent.)	
)	
_____)	(Docket Nos. 2, 3, 4 & 6)

Petitioner, a California inmate currently incarcerated at Pelican Bay State Prison in Crescent City, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. For the reasons discussed below, the instant petition will be dismissed.

BACKGROUND

Petitioner states that he is not challenging his criminal conviction. (Pet. at 2.) Rather, he is challenging the fact that prison officials validated him as a prison gang associate in 2009, and thereby placed him in the security housing unit (“SHU”).

Petitioner filed habeas petitions in the state courts, with the California Supreme Court denying review on January 25, 2012. (Id. at 5.) Petitioner filed the instant federal habeas petition on March 8, 2012.

1 the claims, and potential absence of an adequate prayer for relief.

2 Additionally, there is doubt whether the prisoner is willing to pay the \$350.00
3 civil action filing fee to pursue his claims. While a prisoner may think he has found
4 a loophole that allows him to avoid paying the \$350.00 filing fee by filing in habeas,
5 the loophole proves unhelpful because he ultimately cannot proceed in habeas and
6 will be charged the \$350.00 filing fee to proceed with actions challenging conditions
7 of confinement. It is not in the interest of judicial economy to allow prisoners to file
8 civil rights actions on habeas forms because virtually every such case, including this
9 one, will be defective at the outset and require additional court resources to deal with
10 the problems created by the different filing fees and the absence of information on
11 the habeas form.

12
13 **CONCLUSION**

14 For the foregoing reasons, this action for a writ of habeas corpus is
15 DISMISSED without prejudice to petitioner filing a civil rights action under 42
16 U.S.C. § 1983, preferably using the court's civil rights complaint form, after he has
17 exhausted California's prison administrative remedies. See 42 U.S.C. § 1997e(a).

18 Petitioner's motion for leave to proceed in forma pauperis, (Docket No. 6), is
19 GRANTED. Petitioner's motions for appointment of counsel, (Docket No. 2), for
20 an evidentiary hearing, (Docket No. 3), and for discovery, (Docket No. 4), are
21 DENIED as moot by this dismissal.

22 The Clerk is instructed to include two copies of the prisoner civil rights
23 complaint form to Petitioner with a copy of this order.

24 This order terminates Docket Nos. 2, 3, 4 and 6.

25
26 DATED: 7/6/2012


EDWARD J. DAVILA
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JOSE CARRANZA,
Petitioner,

Case Number: CV12-01169 EJD

CERTIFICATE OF SERVICE

v.

G. D. LEWIS, 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 7/6/2012, 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.

Jose Carranza T62521
Pelican Bay State Prison
P. O. Box 7500
Crescent City, CA 9532-7500

Dated: 7/6/2012

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