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

HAILU WESLEY,)
)
 Petitioner,)
)
 vs.)
)
 GARY SWARTHOUT, Warden,)
)
 Respondent.)
 _____)

No. C 13-5343 LHK (PR)
ORDER VACATING JUDGMENT;
RE-OPENING CASE; DIRECTING
PETITIONER TO RESPOND TO
MOTION TO DISMISS

Petitioner, a state prisoner proceeding *pro se*, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On March 24, 2014, the court denied petitioner’s motion to proceed in forma pauperis and directed him to pay the \$5.00 filing fee within thirty days or face dismissal. On May 12, 2014, having received no payment from petitioner, the court dismissed the action without prejudice. On June 6, 2014, petitioner filed a declaration in which he stated that he paid the \$5.00 filing fee, and it was received by the court on April 9, 2014. However, the payment was not docketed until June 11, 2014. Because petitioner timely complied with the court’s order to pay the filing fee, the court VACATES the judgment, and RE-OPENS this action.

On May 22, 2014, respondent filed a motion to dismiss the petition as a second or successive petition. Petitioner shall file an opposition no later than **twenty-eight days** from the

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1 filing date of this order. Respondent shall file a reply **fourteen days** thereafter.

2 IT IS SO ORDERED.

3 DATED: 6/16/14

Lucy H. Koh

LUCY H. KOH
United States District Judge

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