

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 JEFFRY CURRY,

12 Petitioner,

Civil No. 06-1158 JM (PCL)

13
14 v.

15 TOM CAREY, Warden,

16
17 Respondent.
18

**ORDER GRANTING PETITIONER'S
MOTION TO PROCEED IN FORMA
PAUPERIS**

19
20 On May 30, 2006, Petitioner, proceeding pro se, submitted a Petition for Writ of Habeas
21 Corpus pursuant to 28 U.S.C. § 2254. In its June 21, 2006 Order, the Court dismissed this case
22 without prejudice because Petitioner failed to either pay the \$5.00 filing fee or move to proceed
23 in forma pauperis. Petitioner was instructed that to have this case reopened he had to either pay
24 the \$5.00 filing fee or submit adequate proof of his inability to pay the fee no later than August
25 14, 2006.

26 On August 21, 2006, Petitioner filed a Declaration in Support of a Motion to Proceed in
27 Forma Pauperis, together with a certificate of funds which reflected a balance of \$0.00 on
28 account at the prison where he is housed. On September 18, 2006, this Court issued an Order

1 reopening the case and incorrectly stating that Petitioner had paid the \$5.00 filing fee. Petitioner
2 has now filed a document asking the Court to grant his motion to proceed in forma pauperis.

3 According to the documents provided by Petitioner, he cannot afford the \$5.00 filing fee.
4 Thus, the Court **GRANTS** Petitioner's application to proceed in forma pauperis, and allows
5 Petitioner to prosecute the above-referenced action as a poor person without being required to
6 prepay fees or costs and without being required to post security. The Clerk of the Court shall
7 file the Petition for Writ of Habeas Corpus without prepayment of the filing fee. In all other
8 respects, the Court's September 18, 2006 Order, including the briefing schedule set forth in that
9 Order, shall remain the same.

10 **IT IS SO ORDERED.**

11 DATED: September 26, 2006

12
13 

14 Hon. Peter C. Lewis

15 U.S. Magistrate Judge

16 United States District Court

17
18
19
20
21
22 cc: The Honorable Jeffrey T. Miller
23 All Parties
24
25
26
27
28