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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 LEONEL GOMEZ,

12 Plaintiff,

13 v.

14 TIMOTHY F. BUSBY,

15 Respondent.
16

Civil No. 10cv1115-BTM (PCL)

**ORDER DENYING MOTION TO
PROCEED IN FORMA PAUPERIS AND
DIRECTING THE CDCR TO COLLECT
THE \$5.00 FILING FEE AND
FORWARD IT TO THE CLERK OF
COURT**

17 On May 19, 2010, Petitioner, a state prisoner proceeding pro se, filed a Petition for a Writ
18 of Habeas Corpus pursuant to 28 U.S.C. § 2254, along with a motion to proceed in forma
19 pauperis. On May 27, 2010, this Court denied the application to proceed in forma pauperis
20 because Petitioner failed to include a certificate from the warden or other appropriate officer
21 showing the amount of money or securities Petitioner has on account in the institution. [Doc.
22 No. 3]. The Court further notified Petitioner that in order to avoid dismissal of his case, he must
23 either pay the \$5.00 filing fee or provide adequate proof of his inability to pay no later than July
24 26, 2010. *Id.*

25 On June 18, 2010, Petitioner filed a second motion to proceed in forma pauperis, which
26 includes a Prison Certificate, a copy of Petitioner's prison trust account statement, and a signed
27 "Trust Account Withdrawal Authorization." [Doc. No. 4] According to Petitioner's trust account
28 statement, he has a \$153.42 balance in his prison account. The filing fee associated with this

1 type of action is \$5.00. *See* 28 U.S.C. § 1914(a). It appears Petitioner can pay the requisite
2 filing fee.

3 **CONCLUSION AND ORDER**

4 Good cause appearing therefor, **IT IS HEREBY ORDERED** that:

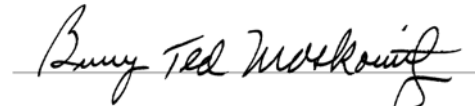
5 1. Petitioner's motion to proceed in forma pauperis is **DENIED**.

6 2. The Secretary of the California Department of Corrections and Rehabilitation, or
7 his designee shall, upon receipt of this Order, collect the \$5.00 filing fee and forward that
8 amount to the Clerk of Court . THE FILING FEE SHALL BE CLEARLY IDENTIFIED BY
9 THE NAME AND NUMBER ASSIGNED TO THIS ACTION.

10 3. The Clerk of the Court is directed to serve a copy of this Order on Matthew Cate,
11 Secretary, California Department of Corrections and Rehabilitation, 1515 S Street, Suite 502,
12 Sacramento, California 95814.

13 **IT IS SO ORDERED.**

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15 DATED: July 6, 2010

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17 Honorable Barry Ted Moskowitz
18 United States District Judge
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