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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 RONALD BRYSON,

12 Petitioner,

13 v.

14 RAYMOND MADDEN, *et al.*,

15 Respondents.
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Case No.: 22cv00556

ORDER:

**(1) DENYING MOTION TO
PROCEED IN FORMA PAUPERIS
[ECF No. 6.]; AND**

**(2) DENYING MOTIONS FOR STAY
AND ABEYANCE, EVIDENTIARY
HEARING, AND DISCOVERY
WITHOUT PREJUDICE [ECF Nos.
2–4]**

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21 On April 20, 2022, Petitioner, a state prisoner proceeding *pro se*, filed a Petition for
22 Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. (ECF No. 1.) The Court dismissed
23 the action on May 12, 2022 because Petitioner failed to either pay the \$5.00 filing fee or
24 request to proceed in forma pauperis (“IFP”). Petitioner was given until July 18, 2022 to
25 either pay the filing fee or submit adequate proof he could not pay the fee. (Order, ECF
26 No. 5.) On July 11, 2022, Petitioner filed a Motion to Proceed IFP. (IFP Mot., ECF No.
27 6.) Additionally, Petitioner has filed a Motion for Stay and Abeyance (ECF No. 2), a
28 Motion for an Evidentiary Hearing (ECF No. 3), and a Motion for Discovery (ECF No. 4).

1 **I. Motion to Proceed in Forma Paupers**

2 The filing fee for a petition of writ of habeas corpus is \$5.00, and the action may
3 proceed despite a failure to prepay the entire fee only if leave to proceed IFP is granted
4 pursuant to 28 U.S.C. § 1915(a). *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir.
5 2007). In its prior Order, this Court informed Petitioner he has failed to comply with this
6 requirement. (Order at 1.) Since then, Petitioner has moved to proceed IFP. (IFP Mot.)

7 A request to proceed IFP made by a state prisoner must include a certificate from
8 the warden or other appropriate officer showing the amount of money or securities the
9 petitioner has on account in the institution (“Prison Certificate”). Rule 3(a)(2), 28 U.S.C.
10 foll. § 2254; Local Civ. R. 3.2; *Jacome v. IRS of California*, No. 21-cv-2083 JLS (MSB),
11 2022 WL 395963, at *1 (S.D. Cal. Feb. 9, 2022). Without a Prison Certificate, the
12 reviewing court lacks the ability to assess whether the petitioner qualifies for IFP status,
13 *i.e.*, whether the petitioner’s indigency inhibits him or her from paying the required fee.
14 Because Petitioner has failed to submit a Prison Certificate, the Court **DENIES** Petitioner’s
15 IFP Motion without prejudice. (ECF No. 6.)

16 **II. Pending Motions for Stay and Abeyance, Evidentiary Hearing, and Discovery**

17 This Court cannot proceed until Petitioner has either paid the \$5.00 filing fee or
18 qualified to proceed in forma pauperis. *See* Rule 3(a), 28 U.S.C. foll. § 2254. Accordingly,
19 the Court **DENIES** without prejudice Petitioner’s Motion for Stay and Abeyance (ECF No.
20 2), Motion for an Evidentiary Hearing (ECF No. 3), and Motion for Discovery (ECF No.
21 4).

22 **III. Conclusion**

23 For the foregoing reasons, the Court **DENIES** without prejudice Petitioner’s IFP
24 Motion (ECF No. 6). The Court further **DENIES** without prejudice Petitioner’s Motions
25 for Stay and Abeyance (ECF No. 2), an Evidentiary Hearing (ECF No. 3), and Discovery
26 (ECF No. 4.)

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1 To proceed with his case, **by no later than October 1, 2022** Petitioner must file a
2 copy of this Order, together with either the \$5.00 filing fee or a Prison Certificate that
3 constitutes adequate proof that Petitioner cannot pay the \$5.00 filing fee. Once Petitioner
4 pays the \$5.00 filing fee or obtains IFP status, he may renew his Motions for Stay and
5 Abeyance, an Evidentiary Hearing, and Discovery, if he so wishes.

6 **IT IS SO ORDERED.**

7 **DATED: July 28, 2022**


8 **Hon. Cynthia Bashant**
9 **United States District Judge**

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