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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RICHARD DENSON,

Petitioner,

vs.

DWIGHT NEVEN, *et al.*,

Respondents.

2:15-cv-01473-APG-PAL

ORDER

_____ /

This action is a petition for writ of habeas corpus. On August 17, 2015, the petitioner, Richard Denson, submitted an application to proceed *in forma pauperis* (ECF No. 1), a petition for a writ of habeas corpus (ECF No. 4), and a motion for appointment of counsel (ECF No. 2).

On August 4, 2015, finding Denson able to pay the filing fee, the court denied his application to proceed *in forma pauperis*, and ordered him to pay the filing fee within 30 days. *See* Order entered August 4, 2015 (ECF No. 3). The court stated that failure to comply with that order would result in the dismissal of this action.

Denson did not pay the filing fee in the time allowed. Therefore, on September 16, 2015, the court dismissed this action, and judgment was entered accordingly (ECF Nos. 5, 6).

On October 5, 2015, Denson filed a document entitled "Motion for Reconsideration and Other Relief (FRCP 59 and 60)" (ECF No. 7). That document is in the nature of a motion for relief

1 from judgment, pursuant to Federal Rule of Civil Procedure 60(b), and the court treats it as such.
2 The motion for relief from judgment was filed within a reasonable time. *See* Fed.R.Civ.P. 60(c).

3 In his motion for relief from judgment, Denson states that he attempted to pay the filing fee,
4 but was unable to do so. Denson asks for additional time to pay the filing fee.

5 The court finds that there is good cause to grant Denson's motion for relief from judgment.
6 The court will order the judgment vacated. The court will grant Denson additional time to pay the
7 filing fee, or to file a new application to proceed *in forma pauperis*, if he believes he is no longer
8 able to pay the filing fee. If Denson does not pay the filing fee, or file a new application to proceed
9 *in forma pauperis*, within the time allowed, this action will be dismissed.

10 **IT IS THEREFORE ORDERED** that petitioner's "Motion for Reconsideration and Other
11 Relief (FRCP 59 and 60)" is treated as a motion for relief from judgment, pursuant to Federal Rule
12 of Civil Procedure 60(b), and is **GRANTED**.

13 **IT IS FURTHER ORDERED** that the judgment entered September 16, 2015 (ECF No. 6),
14 is **VACATED**.

15 **IT IS FURTHER ORDERED** that petitioner shall have until **January 8, 2016**, to pay the
16 \$5 filing fee for this action. To do so, petitioner shall have the filing fee of five dollars (\$5) sent to
17 the Clerk of the Court, along with a copy of this order, or other document indicating the filing fee is
18 for this action. In the alternative, if he is no longer able to pay the filing fee, petitioner may file a
19 new application to proceed *in forma pauperis*, on the correct form and fully completed. Failure to
20 comply with this order, within the time allowed, will result in dismissal of this action.

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22 Dated this 6th day of November, 2015.

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25 _____
26 UNITED STATES DISTRICT JUDGE