

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DENNIS SUDBERRY,

Case No. 3:17-cv-00030-RCJ-VPC

Y

Petitioner,

ORDER

ISIDRO BACA, et al.,

Respondents.

14 Petitioner Dennis Sudberry has submitted a *pro se* petition for writ of habeas
15 corpus, pursuant to 28 U.S.C. § 2254 (ECF No. 1-1). While he has submitted an
16 application to proceed *in forma pauperis*, he has failed to provide the requisite financial
17 certificate or inmate account statements. Moreover, Sudberry sets forth no grounds for
18 federal habeas relief in his petition; instead he states that prison medical personnel are
19 violating his rights under the Americans with Disabilities Act (ADA).

20 Sudberry has not properly commenced a federal habeas matter. 28 U.S.C. §
21 1915(a)(2) and Local Rule LSR 1-2. Moreover, if Sudberry claims that prison medical
22 personnel have denied him a wheelchair, such a claim may be cognizable under the
23 ADA or under 42 U.S.C. § 1983 as a violation of his Eighth Amendment rights. Such a
24 claim does not, however, state a claim for which federal habeas relief may be granted.

25 Thus, the present action will be dismissed without prejudice to the filing of either
26 a new petition in a new action or a civil rights complaint with either the appropriate filing
27 fee or a completed application to proceed *in forma pauperis* on the proper form with

1 both an inmate account statement for the past six months and a properly executed
2 financial certificate.

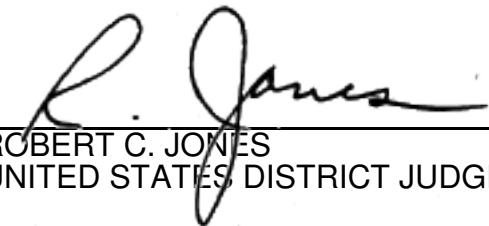
3 **IT IS THEREFORE ORDERED** that petitioner's incomplete application to
4 proceed *in forma pauperis* (ECF No. 1) is **DENIED**.

5 **IT IS FURTHER ORDERED** that this action is **DISMISSED** without prejudice as
6 set forth in this order.

7 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**, as
8 jurists of reason would not find the court's dismissal of this improperly commenced
9 action without prejudice to be debatable or incorrect.

10 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** accordingly
11 and close this case.

13 DATED: 5 April 2017.

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16 ROBERT C. JONES
17 UNITED STATES DISTRICT JUDGE

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