

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

\* \* \*

THOMAS WRAY HERNDON,

Petitioner,

v.

DWIGHT NEVEN, *et al.*,

Respondents.

Case No. 3:20-cv-00489-MMD-CLB

ORDER

Petitioner Thomas Herndon, a Nevada state prisoner, has submitted a *pro se* petition for writ of *habeas corpus* under 28 U.S.C. § 2254. (ECF No. 1) This habeas matter is before the Court for consideration of Petitioner's application to proceed *in forma pauperis* (IFP). (ECF No. 5.)

Under 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5.00 filing fee is required to initiate a habeas action in a federal district court. A federal district court may authorize a person to begin an action without prepaying fees and costs if the person submits an IFP application on the approved form along with the appropriate supporting documentation. 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2.

Although Petitioner submitted the required form, the supporting documents show Petitioner is able to pay the \$5.00 filing fee. Thus, Petitioner does not qualify for a fee waiver. The Court therefore denies Petitioner's IFP application and gives him 45 days to pay the filing fee.<sup>1</sup>

It is therefore ordered that Petitioner's application to proceed *in forma pauperis* (ECF No. 5) is denied.

///

---

<sup>1</sup>On October 11, 2020, Petitioner notified the Court that he has already submitted a brass slip to prison officials to pay the \$5.00 filing fee.

1 It is further ordered that Petitioner must pay the \$5.00 filing fee by November 30,  
2 2020.

3 The Clerk of Court is directed to mail Petitioner *two* copies of this order. If possible,  
4 Petitioner should arrange to have a copy of this order attached to the check for the filing  
5 fee.

6 The initial screening of the petition for writ of *habeas corpus* (ECF No. 1-1) under  
7 the Rules Governing Section 2254 Cases and consideration of Petitioner's motion for  
8 appointment of counsel (ECF No. 4) are deferred until such time as Petitioner has fully  
9 complied with this order.

10 Failure to timely comply with this order will result in the dismissal of this action  
11 without further advance notice.

12 DATED THIS 16<sup>th</sup> Day of October 2020.

13  
14   
15 \_\_\_\_\_  
16 MIRANDA M. DU  
17 CHIEF UNITED STATES DISTRICT JUDGE  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28