

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH A. CASTRO,

Petitioner,

v.

Respondent.

No. 2:22-cv-2005 CKD P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis.

Examination of the in forma pauperis affidavit reveals petitioner is unable to afford the costs of this action. Accordingly, leave to proceed in forma pauperis will be granted. 28 U.S.C. § 1915(a).

As suggested above, petitioner has failed to identify a respondent in this case. Pursuant to Rule 2 of the Rules Governing Section 2254 Cases, a proper respondent is a state officer who has custody of petitioner. Petitioner asserts he is currently imprisoned at Mule Creek State Prison. That being the case, a proper respondent would either be the Warden at Mule Creek State Prison or the head of the California Department of Corrections and Rehabilitation. Good cause appearing, petitioner's original petition will be dismissed with leave to amend so that petitioner can name a proper respondent.

Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's motion for leave to proceed in forma pauperis (ECF No. 2) is granted.

2. Petitioner's application for writ of habeas corpus is dismissed with leave to amend within thirty days from the date of this order.¹

3. Any amended petition must name a proper respondent, bear the case number assigned to this action and the title "Amended Petition."

4. The Clerk of the Court is directed to send petitioner the court's form for application for writ of habeas corpus.

Dated: January 12, 2023



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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¹ By setting this deadline, the court is making no finding or representation that the petition is not subject to dismissal as untimely.