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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROGER L. STOKELY,)	1:03-CV-6144 DLB HC
)	Appeal Number 05-17140
Petitioner,)	
)	ORDER REQUIRING PETITIONER TO
v.)	SUBMIT COMPLETED APPLICATION TO
)	PROCEED IN FORMA PAUPERIS ON
)	APPEAL OR PAY FILING FEE
) JOE Mc GRAHT,,)	
)	ORDER DIRECTING CLERK TO SERVE
Respondent.)	COPY OF THIS ORDER ON COURT OF
_____)	APPEALS

_____Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On September 20, 2005, judgment was entered in favor of respondent and against petitioner. On October 20, 2005, plaintiff filed a notice of appeal. On October 28, 2005, the court issued its order denying the motion for certificate of appealability, and on October 31, 2005, the certificate of record was transmitted to the Court of Appeals for the Ninth.

On December 8, 2005, petitioner filed his declaration in support of motion for leave to proceed in forma pauperis on appeal. A party who was permitted to proceed in forma pauperis in the district court may proceed in forma pauperis on appeal without further authorization unless the district court certifies that the appeal is not taken in good faith. See Fed. R. App. P. 24(a)(3). In this case, petitioner paid the filing fee and did not proceed in this Court in forma pauperis. Thus, petitioner is not

1 automatically entitled to proceed in forma pauperis on appeal.

2 Rule 24(a)(1) of the Federal Rules of Appellate Procedure states that a party who desires to
3 appeal in forma pauperis must file a motion in the district court and attach to that motion a completed
4 application to proceed in forma pauperis, along with the issues the party intends to present on appeal.
5 Petitioner's request, however, did not include the required original signature by an authorized officer of
6 the institution of incarceration. Additionally, petitioner has not filed a certified copy of his prison trust
7 account statement for the six month period immediately preceding the filing of the petition. See 28
8 U.S.C. 1914(a); 1915 (a).

9 The Court will provide petitioner with the opportunity to submit either the appropriate
10 application and certified copy of Petitioner's prison trust account or the \$255.00 filing fee.

11 Accordingly, the Court ORDERS that:

12 1. The Clerk of the Court is DIRECTED to send petitioner a copy of the application to
13 proceed in forma pauperis;

14 2. Petitioner is DIRECTED to submit either the completed application, accompanied by a
15 certified copy of Petitioner's prison trust account statement for the last six months, **or** the \$255.00 filing
16 fee, within twenty (20) days of the date of service of this order; and

17 3. The Clerk of Court is DIRECTED to serve a copy of this order on the Court of Appeals
18 for the Ninth Circuit.

19 IT IS SO ORDERED.

20 **Dated: February 6, 2006**

ah014d

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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