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4 **UNITED STATES DISTRICT COURT**
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EASTERN DISTRICT OF CALIFORNIA

7 RAYVAUGHN ROYCE EMBRY,

Case No. 1:04-cv-06101-AWI-SAB-HC

8 Petitioner,

ORDER DENYING MOTIONS TO
PROCEED IN FORMA PAUPERIS ON
APPEAL AS UNNECESSARY

9 v.

10 G.J. GUIRBINO,

(Doc. Nos. 41, 42)

11 Respondent.

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13 Petitioner is a state prisoner who proceeded pro se and in forma pauperis with a § 2254
14 petition for writ of habeas corpus. On September 15, 2017, the Court denied Petitioner's Rule
15 60(b) motion. Doc. No. 37. On October 13, 2017, Petitioner filed a notice of appeal and motions
16 to proceed in forma pauperis on appeal. Doc. Nos. 39–41.

17 A party who is permitted to proceed in forma pauperis in the district court may proceed in
18 forma pauperis on appeal without further authorization unless the district court certifies that the
19 appeal is not taken in good faith. See Fed. R. App. P. 24(a)(3). Here, Petitioner was previously
20 granted in forma pauperis status on September 24, 2004, Doc. No. 4, and Petitioner's recent
21 affidavit establishes that he is indigent and unable to pay the costs of an appeal. The Court has
22 not and does not certify that Petitioner's appeal is not taken in good faith. Thus, Petitioner is
23 entitled to proceed in forma pauperis on appeal, and his motions shall be denied as unnecessary.

24 IT IS SO ORDERED.

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26 Dated: November 16, 2017



SENIOR DISTRICT JUDGE

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