UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CLARENCE LEON DEWS,
 	
      Plaintiff,
 	
    v.
 	
CALIFORNIA SUPERIOR COURT,
FRESNO COUNTY,
 	
      Defendant.
	Case No.: 1:12-cv-01352 –SAB (HC)
	
	ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL FINDING APPEAL IS NOT TAKEN IN GOOD FAITH AND DIRECTING CLERK OF COURT TO SERVE THE COURT OF APPEALS
	
	(ECF No. 17)

On December 6, 2012, the instant petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 was dismissed and judgment was entered.

On March 18, 2013,[1] Petitioner filed a notice of appeal.

On April 8, 2013, Petitioner filed an application to proceed in forma pauperis. 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).

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[1] This filing date reflects application of the mailbox rule. See Rule 3(d) of the Federal Rules Governing Section 2254 Cases ("[a] paper filed by an inmate confined in an institution is timely if deposited in the institution's internal mailing system on or before the last day for filing); see also Houston v. Lack, 487 U.S. 266 (1988) (deeming a prose prisoner's notice of appeal filed at the moment it was delivered to prison authorities for forwarding to the clerk of court).

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1   A notice of appeal must be filed within thirty days from the date judgment was entered. See

2 Fed. R. App. P. 4(a)(1)(A). In this instance, Petitioner's notice of appeal was due on or before January

3 5, 2013. Because Petitioner's notice of appeal was untimely filed on March 18, 2013, the Court finds

4 the appeal is not taken in good and in forma pauperis status is DENIED.

8 IT IS SO ORDERED.

10 Dated: **April 11, 2013**   _____

UNITED STATES MAGISTRATE JUDGE