

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
10

11 JONQUEL BROOKS,

12 Petitioner,

13 v.

14 J. SOTO,

15 Respondent.  
16

Case No. 1:13-cv-01683-LJO-SAB-HC

ORDER REGARDING PETITIONER'S  
APPLICATION TO PROCEED IN FORMA  
PAUPERIS ON APPEAL  
(ECF No. 23)

17 Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus  
18 pursuant to 28 U.S.C. § 2254. On March 9, 2015, Petitioner filed a notice of appeal. (ECF No.  
19 21). On that same date, Petitioner filed an application to proceed in forma pauperis on appeal.  
20 (ECF No. 23). Petitioner was represented by counsel and paid the filing fee for his habeas  
21 petition in this Court.

22 Title 28, United States Code, Section 1915 and Federal Rules of Appellate Procedure  
23 24(a) govern the determination of applications to proceed with an appeal in forma pauperis  
24 ("IFP"). A party must obtain leave to proceed in forma pauperis on appeal when he was not  
25 granted leave to proceed IFP in the district court action. See Fed. R. App. P. 24(a). Specifically,  
26 in accordance with Fed. R.App. P. 24(a)(1), an IFP applicant must provide this Court with an  
27 affidavit that:

28 (A) shows in the detail prescribed by Form 4 of the Appendix of

Forms the party's inability to pay or to give security for fees and costs;

(B) claims an entitlement to redress; and

(C) states the issues that the party intends to present on appeal.

Petitioner only submitted a one page, unsigned declaration as his application to proceed IFP with his appeal.<sup>1</sup> Petitioner's declaration must have a signature, so Petitioner is directed to submit a new, signed declaration in support of his request to appeal in forma pauperis. Petitioner did not complete Form 4 as required by Fed. R.App. P. 24(a)(1)(A). Petitioner stated that he has received money from his family within the past twelve months, but he did not state the amount of money that he received from his family. The Court is unable to determine whether Petitioner is indigent and unable to pay the filing fee based on the information before the Court at this time. Petitioner shall provide the Court with a certified copy of his trust fund account statement for the 6-month period immediately preceding the filing of the notice of appeal. See 28 U.S.C. § 1915(a)(2). Petitioner also did not state in his affidavit the issues that he intends to present on appeal.

Accordingly, IT IS HEREBY ORDERED that Petitioner is DIRECTED to submit a certified copy of the trust fund account statement for the 6-month period immediately preceding the filing of the notice of appeal and a signed affidavit in support of his motion in accordance with Fed. R.App. P. 24(a) within THIRTY days of the date of service of this order.

IT IS SO ORDERED.

Dated: March 13, 2015

  
UNITED STATES MAGISTRATE JUDGE

<sup>1</sup> Petitioner included the first page of a form entitled "Declaration in Support of Request to Proceed without Prepayment of Filing Fees." However, there is no signature on this page. Upon a review of the form, it appears that Petitioner did not send the complete form.