

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

## JONQUEL BROOKS,

Petitioner,

V.

J. SOTO,

## Respondent.

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

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

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus

pursuant to 28 U.S.C. § 2254. On March 9, 2015, Petitioner filed a notice of appeal. (ECF No.

21). On that same date, Petitioner filed an application to proceed in forma pauperis on appeal.

(ECF No. 23). Petitioner was represented by counsel and paid the filing fee for his habeas

petition in this Court.

Title 28, United States Code, Section 1915 and Federal Rules of Appellate Procedure

24(a) govern the determination of applications to proceed with an appeal in forma pauperis

(“IFP”). A party must obtain leave to proceed in forma pauperis on appeal when he was not

granted leave to proceed IFP in the district court action. See Fed. R. App. P. 24(a). Specifically,

in accordance with Fed. R.App. P. 24(a)(1), an IFP applicant must provide this Court with an

affidavit that:

(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.

5 Petitioner only submitted a one page, unsigned declaration as his application to proceed  
6 IFP with his appeal.<sup>1</sup> Petitioner's declaration must have a signature, so Petitioner is directed to  
7 submit a new, signed declaration in support of his request to appeal in forma pauperis. Petitioner  
8 did not complete Form 4 as required by Fed. R.App. P. 24(a)(1)(A). Petitioner stated that he has  
9 received money from his family within the past twelve months, but he did not state the amount of  
10 money that he received from his family. The Court is unable to determine whether Petitioner is  
11 indigent and unable to pay the filing fee based on the information before the Court at this time.  
12 Petitioner shall provide the Court with a certified copy of his trust fund account statement for the  
13 6-month period immediately preceding the filing of the notice of appeal. See 28 U.S.C. §  
14 1915(a)(2). Petitioner also did not state in his affidavit the issues that he intends to present on  
15 appeal.

16 Accordingly, IT IS HEREBY ORDERED that Petitioner is DIRECTED to submit a  
17 certified copy of the trust fund account statement for the 6-month period immediately preceding  
18 the filing of the notice of appeal and a signed affidavit in support of his motion in accordance  
19 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**

George A. Baze  
UNITED STATES MAGISTRATE JUDGE

28 <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.