

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 GRANTING PETITIONER'S  
MOTION TO PROCEED IN FORMA  
PAUPERIS ON APPEAL

(ECF Nos. 23 & 28)

17 Petitioner is a state prisoner who filed a petition for writ of habeas corpus pursuant to 28  
18 U.S.C. § 2254. Petitioner was represented by counsel and paid the filing fee for his habeas  
19 petition in this Court. (ECF No. 1). On February 5, 2015, District Judge Lawrence O'Neill  
20 denied the petition. (ECF No. 19). On March 9, 2015, Petitioner filed a notice of appeal. (ECF  
21 No. 21). On that same date, Petitioner filed an application to proceed in forma pauperis on  
22 appeal. (ECF No. 23).

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

1 (A) shows in the detail prescribed by Form 4 of the Appendix of  
2 Forms the party's inability to pay or to give security for fees  
and costs;

3 (B) claims an entitlement to redress; and

4 (C) states the issues that the party intends to present on appeal.  
5

6 Petitioner only submitted a one page, unsigned declaration as his application to proceed  
7 IFP with his appeal. (ECF No. 23). On March 13, 2015, the Court directed Petitioner to submit  
8 a certified copy of the trust fund account statement for the 6-month period immediately  
9 preceding the filing of the notice of appeal and a signed affidavit in support of his motion in  
10 accordance with Federal Rule of Appellate Procedure 24(a). (ECF No. 26). On April 13, 2015,  
11 Petitioner submitted a signed declaration in support of his motion for leave to proceed IFP and  
12 his inmate statement report for the 6-month period immediately preceding the filing of his notice  
13 of appeal. (ECF No. 28).

14 The Court finds that Petitioner is indigent and unable to pay the filing fee. Although  
15 Petitioner did not state the issues that he intends to present on appeal in his affidavit supporting  
16 his motion to proceed IFP with his appeal, he did state the issues that he intends to present on  
17 appeal in his motion for a certificate of appealability that was submitted at the same time as the  
18 notice of appeal. (ECF No. 22). Therefore, the Court finds that Petitioner has complied with the  
19 requirements of Federal Rule of Appellate Procedure 24(a)(1).

20 Accordingly, Petitioner's motion to appeal *in forma pauperis* pursuant to Federal Rule of  
21 Appellate Procedure 24(a)(1) is GRANTED.

22 IT IS SO ORDERED.

23  
24 Dated: April 23, 2015

  
UNITED STATES MAGISTRATE JUDGE