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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RON NAPOLES, LAURINE NAPOLES,  
RICK NAPOLES, JAMES NAPOLES,  
MARK NAPOLES, DEBRA WILLIAMS,  
and WADE WILLIAMS,

Petitioner,

v.

DESTIN ROGERS, JEFF ROMERO,  
BRIAN PONCHO, EARLEEN  
WILLIAMS, and WILLIAM BILL VEGA,  
in their individual and official capacities as  
representative of the Bishop Paiute Tribal  
Council; BISHOP PAIUTE TRIBAL  
COUNCIL; and Tribal Court Judge BILL  
KOCKENMEISTER, in his individual  
official capacity,

Respondents.

No. 16-cv-01933-DAD-JLT

ORDER DENYING *IN FORMA PAUPERIS*  
STATUS FOR NOTICE OF APPEAL

(Doc. No. 40)

This court granted respondents’ motions to dismiss on July 10, 2017. (Doc. No. 37.)  
Petitioner Ron Napoles<sup>1</sup> filed a motion to proceed *in forma pauperis* on appeal on August 8,  
2017. (Doc. No. 40.) Petitioners did not proceed in the district court *in forma pauperis*, but  
instead paid the filing fee. Federal law permits “any court of the United States [to] . . . authorize  
the commencement . . . of any . . . appeal . . . without prepayment of fees or security therefor,” if

<sup>1</sup> There are multiple petitioners in this habeas case, but only petitioner Ron Napoles has filed this  
motion or provided an affidavit in support of it.

1 the petitioner provides a statement of the assets they possess and can show they are unable to pay  
2 the filing fee. 28 U.S.C. § 1915(a). “[A] party to a district-court action who desires to appeal *in*  
3 *forma pauperis* must file a motion in the district court.” Fed. R. App. Proc. 24(a)(1). The party  
4 must include an affidavit with their filing that shows their inability to pay, claims an entitlement  
5 to redress, and states the issues the party intends to present on appeal. Fed. R. App. Proc.  
6 24(a)(1)(A)–(C). Inability to pay does not require that a petitioner “be absolutely destitute to  
7 enjoy the benefit of the statute.” *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339  
8 (1948). Rather, “an affidavit is sufficient which states that one cannot because of his poverty pay  
9 or give security for the costs and still be able to provide himself and dependents with the  
10 necessities of life.” *Id.* (internal quotations and amendments omitted); *see also Rowland v. Cal.*  
11 *Men’s Colony*, 506 U.S. 194, 203 (1993).

12 Petitioner’s affidavit in support of his application indicates that he is employed, receives  
13 approximately \$1,500 in wages every two weeks and owns a vehicle worth approximately  
14 \$10,000. Moreover, petitioner reports that he has approximately \$20,000 in cash, checking, or  
15 savings accounts. (Doc. No. 40 at 2.) The filing fee for a notice of appeal in this case is \$505.  
16 *See* U.S. Dist. Ct., E. Dist. Cal., Fee Schedule, <http://www.caed.uscourts.gov/caednew/index.cfm>  
17 */attorney-info/fee-schedule/* (last visited Sept. 6, 2017). Petitioner’s affidavit does not state he  
18 would be unable to provide himself or his dependents<sup>2</sup> with the necessities of life, and reveals that  
19 he has both earnings and assets from which to pay this filing fee. *Rowland*, 506 U.S. at 203.  
20 Finally, petitioner does not indicate what issues he intends to present on appeal. (*See* Doc. Nos.  
21 39, 40.) The court therefore denies petitioner Ron Napoles application for leave to proceed *in*  
22 *forma pauperis* (Doc. No. 40) on appeal.

23 IT IS SO ORDERED.

24 Dated: September 6, 2017

25   
UNITED STATES DISTRICT JUDGE

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27  
28 <sup>2</sup> The affidavit indicates petitioner does not have any dependents. (*See* Doc. No. 40 at 2.)