

IN THE UNITED STATES DISTRICT COURT
OR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY DAVID GIBSON,

Petitioner, No. CIV S-06-1403 LKK EFB F

VS.

M. KRAMER, Warden,

Respondent. **ORDER**

Petitioner is a state prisoner proceeding pro se with this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Judgment was entered in this case on September 27, 2007, and this matter is currently on appeal to the United States Court of Appeals for the Ninth Circuit. On July 30, 2008, petitioner filed a request to proceed *in forma pauperis* on appeal. The court file reflects that petitioner paid the filing fee for this action.

Rule 24(a) of the Federal Rules of Appellate Procedure provides that a party to a district court action who desires to proceed *in forma pauperis* on appeal must file a motion in the district court which:

- (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.

1 Fed. R. App. P. 24(a)(1). On July 30, 2008, petitioner filed the appropriate affidavit which
2 demonstrates his inability to pay or to give security for fees and costs. In his February 26, 2008
3 request for a certificate of appealability, which this court denied, petitioner claimed entitlement
4 to redress and described the issues he intended to present on appeal. Petitioner has complied
5 with the requirements of Fed. R. App. P. 24(a) and there is no indication petitioner is proceeding
6 in bad faith. See 28 U.S.C. § 1915(a)(3) (providing appeal may not be taken *in forma pauperis*
7 where appeal “is not taken in good faith”); see, e.g., Brittain v. Mayberg, 286 Fed. Appx. 444,
8 444-45 (9th Cir. 2008) (granting habeas petitioner’s motion to proceed *in forma pauperis* on
9 appeal, even though certificate of appealability had been denied and “questions raised [on] appeal
10 [were] so insubstantial as to not require further argument”).

11 Good cause appearing, IT IS HEREBY ORDERED that petitioner’s July 30,
12 2008, request to proceed *in forma pauperis* on appeal is granted.

13 DATED: April 2, 2009.

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16 LAWRENCE K. KARLTON
17 SENIOR JUDGE
18 UNITED STATES DISTRICT COURT
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