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

DANIEL HARPER,

Plaintiff,

No. CIV S-07-2131 MCE EFB P

vs.

HUMPHREYS, et al.,

Defendants.

ORDER

Plaintiff, a state prisoner proceeding in forma pauperis, sought relief pursuant to 42 U.S.C. § 1983. On September 30, 2009, findings and recommendations were issued recommending that this action be dismissed. On December 24, 2009, the assigned district judge adopted that recommendation and dismissed this action. Judgment was duly entered.

On January 11, 2010, plaintiff filed a notice of appeal. On May 28, 2010, plaintiff filed a motion for leave to proceed in forma pauperis.

The Federal Rules of Appellate Procedure provide as follows:

A party who was permitted to proceed in forma pauperis in the district-court action . . . may proceed on appeal in forma pauperis without further authorization unless the district court . . . certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis . . . .

Fed. R. App. P. 24(a)(3). This court has not certified that plaintiff's appeal is not taken in good

1 faith and has not otherwise found that plaintiff is not entitled to proceed on appeal in forma  
2 pauperis. Accordingly, plaintiff's motion for leave to proceed in forma pauperis on appeal will  
3 be denied as unnecessary.

4 On May 28, 2010, plaintiff also submitted a filing on a form habeas petition. The filing  
5 does not include any particular request for relief, but references the defendant and claim in this  
6 action, and is accompanied by various exhibits, including copies of plaintiff's inmate grievances,  
7 documents previously filed in this action, and discovery documents. Plaintiff's filing is not  
8 authorized by the Federal Rules of Civil Procedure or Federal Rules of Appellate Procedure and  
9 will therefore be stricken.

10 On July 9, 2010, plaintiff filed a request for a trial date, which will be stricken for the  
11 same reasons.

12 The court notes that it will issue no response to future filings by plaintiff in this action  
13 not authorized by the Federal Rules of Civil Procedure or Federal Rules of Appellate Procedure.

14 In accordance with the above, IT IS HEREBY ORDERED that:

15 1. Plaintiff's May 28, 2010 motion to proceed in forma pauperis on appeal is denied as  
16 unnecessary. *See* Fed. R. App. P. 24(a).

17 2. Plaintiff's May 28, 2010 and July 9, 2010 filings, dckt. no. 77, 78, are stricken and the  
18 Clerk of the Court is directed to make a notation to that effect.

19 Dated: July 19, 2010.

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21 EDMUND F. BRENNAN  
22 UNITED STATES MAGISTRATE JUDGE  
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