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

GORDON BROOKS,

Petitioner,

No. CIV S-08-862 MCE CHS P

vs.

D.K. SISTO, Warden, et al.,

Respondents.

ORDER

_____/

Petitioner’s application for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254 was denied, and judgment entered, on December 13, 2010. Petitioner filed a notice of appeal with respect to that decision and his appeal has been processed to the Ninth Circuit.

On January 14, 2010, petitioner filed a motion to proceed on appeal in forma pauperis accompanied by an affidavit containing a statement of all assets. Petitioner’s declaration makes the showing required by 28 U.S.C. § 1915(a)(1). Because he is a prisoner, however, petitioner must additionally comply with section (a)(2), which requires that

A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period

1 immediately preceding the filing of the complaint or notice of
2 appeal, obtained from the appropriate official of each prison at
3 which the prisoner is or was confined.

3 28 U.S.C. § 1915(a)(2).

4 Accordingly, petitioner's January 14, 2011 motion to proceed in forma pauperis
5 on appeal is denied at this time, without prejudice to its renewal upon submission of petitioner's
6 trust fund account statement.

7 IT IS SO ORDERED.

8 DATED: January 21, 2011

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10 CHARLENE H. SORRENTINO
11 UNITED STATES MAGISTRATE JUDGE
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