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

DAVID WESSEL,

Petitioner,

No. CIV S-08-1082 WBS CHS P

vs.

D.K. SISTO, et al.,

Respondents.

ORDER

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Petitioner, a state prisoner proceeding pro se and in forma pauperis, sought relief pursuant to 28 U.S.C. § 2254. Judgment was entered and this action terminated on April 6, 2009. On April 13, 2009, petitioner filed a notice of appeal; a certificate of appealability issued and the appeal was processed to the Ninth Circuit Court of Appeals on January 5, 2011. On January 13, 2011, petitioner filed an application to proceed on appeal in forma pauperis.

Rule 24 of the Federal Rules of Appellate Procedure provides:

a party who has been permitted to proceed in an action in the district court in forma pauperis . . . may proceed on appeal in forma pauperis without further authorization unless . . . the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed . . . .

Fed. R. App. 24. Since this court has not certified that petitioner’s appeal is not taken in good faith, petitioner may proceed on appeal in forma pauperis without further authorization and his

1 motion for leave to proceed in forma pauperis on appeal will be denied as unnecessary.

2 In accordance with the above, IT IS HEREBY ORDERED that petitioner's  
3 January 13, 2001 motion to proceed on appeal in forma pauperis is denied as unnecessary.

4 DATED: January 18, 2011

*Charlene H. Sorrentino*

CHARLENE H. SORRENTINO  
UNITED STATES MAGISTRATE JUDGE

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