IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNIS GERALD CLAIBORNE, No. CIV S-08-1319-CMK-P

Plaintiff,

vs. ORDER

ALBONICO,

Defendant.

_____/

Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. This action was dismissed without prejudice on August 19, 2009. The court denied plaintiff's motion for reconsideration and the matter has been processed to the Ninth Circuit Court of Appeals following plaintiff's filing of a notice of appeal on October 9, 2009. Currently pending before the court is plaintiff's motion for leave to proceed in forma pauperis on appeal (Doc. 42). The motion is denied without prejudice to seeking relief in the appellate court.

IT IS SO ORDERED.

DATED: January 27, 2010

Craig M. Kellison

CRAIG M. KELLISON
UNITED STATES MAGISTRATE JUDGE

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