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

KENYA GAYLES,

Petitioner,

No. CIV S-08-2774 GEB EFB P

vs.

D. K. SISTO, Warden,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus. See 28 U.S.C. § 2254. On April 13, 2010, petitioner requested an extension of time to submit an application to proceed *in forma pauperis* on appeal. See Fed. R. Civ. P. 6(b). On April 15, 2010, petitioner filed the application.

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). Petitioner has filed a form "Application to Proceed In Forma Pauperis
2 By a Prisoner" stating his inability to pay or to give security for fees and costs. The declaration
3 fails to include many details prescribed by Form 4 of the Appendix of Forms, however. In
4 addition, petitioner has not described the issues he intends to present on appeal.

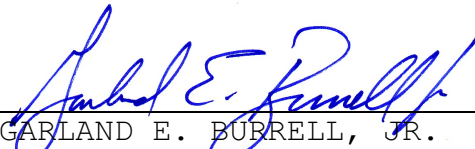
5 Accordingly, IT IS HEREBY ORDERED that petitioner's July 16, 2009, request to
6 proceed *in forma pauperis* on appeal is denied without prejudice. The Clerk of the Court is
7 directed to serve a copy of this order on the United States Court of Appeals for the Ninth Circuit,
8 and plaintiff is advised that he may file a motion to proceed *in forma pauperis* in the United
9 States Court of Appeals for the Ninth Circuit. See Fed. R. App. P. 24(a)(5).

10 The court HEREBY ORDERS:

11 1. Good cause appearing, petitioner's April 13, 2010, request for an extension of time is
12 granted and petitioner's April 15, 2010, application to proceed *in forma pauperis* on appeal is
13 deemed timely filed.

14 2. Petitioner's April 15, 2010 request to proceed *in forma pauperis* on appeal is denied
15 without prejudice. The Clerk of the Court is directed to serve a copy of this order on the United
16 States Court of Appeals for the Ninth Circuit, and plaintiff is advised that he may file a motion to
17 proceed *in forma pauperis* in the United States Court of Appeals for the Ninth Circuit. See Fed.
18 R. App. P. 24(a)(5).

19 Dated: May 7, 2010

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GARLAND E. BURRELL, JR.
United States District Judge