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

ROY GERALD SMITH,
Petitioner,

No. CIV S-10-1737-KJM-CMK-P

vs.

ORDER

M.D. McDONALD,
Respondent.

_____ /

Petitioner, a state prisoner proceeding pro se, brought this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Final judgment was entered on September 29, 2011. Pending before the court is petitioner’s motion for leave to proceed in forma pauperis on appeal (Doc. 35). The motion is denied without prejudice to renewing the motion in the Ninth Circuit Court of Appeals.

IT IS SO ORDERED.

DATED: October 27, 2011



CRAIG M. KELLISON
UNITED STATES MAGISTRATE JUDGE