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

GABRIEL STOIAN,

Petitioner,

No. CIV S-10-3296 GEB EFB P

vs.

MICHAEL MARTEL,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus. *See* 28 U.S.C. § 2254. Petitioner paid the filing fee in this case. On September 27, 2011, this court denied relief and judgment was entered. The court declined to issue a certificate of appealability. *See* 28 U.S.C. § 2253(c).

Petitioner has filed a notice of appeal and a motion for leave to proceed *in forma pauperis*. A habeas petitioner seeking leave to proceed *in forma pauperis* on appeal must file in the district court an affidavit that 1) shows his inability to pay or give security for the fees and costs; 2) claims an entitlement to redress; and 3) states the issues that he intends to address on appeal. Fed. R. App. P. 24(a)(1). Here, petitioner has filed an affidavit that shows his inability to pay, but has not met the second or third requirements.

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1 Accordingly, it is ORDERED that petitioner's November 15, 2011 motion for leave to
2 proceed in forma pauperis is denied.

3 Dated: November 18, 2011.

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5 EDMUND F. BRENNAN
6 UNITED STATES MAGISTRATE JUDGE
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