

1 application, he must move in the United States Court of Appeals for the Ninth Circuit for an order
2 authorizing the district court to consider the application. 28 U.S.C. § 2244(b)(3). Therefore,
3 petitioner’s application must be dismissed without prejudice to its refiling upon obtaining
4 authorization from the United States Court of Appeals for the Ninth Circuit.

5 In accordance with the above, IT IS HEREBY ORDERED that petitioner’s application to
6 proceed in forma pauperis is granted; and

7 IT IS RECOMMENDED that this action be dismissed without prejudice.

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
10 after being served with these findings and recommendations, petitioner may file written
11 objections with the court. The document should be captioned “Objections to Magistrate Judge’s
12 Findings and Recommendations.” Petitioner is advised that failure to file objections within the
13 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951
14 F.2d 1153 (9th Cir. 1991).

15 Dated: November 5, 2013

16 /s/ Gregory G. Hollows

17 UNITED STATES MAGISTRATE JUDGE

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