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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL COX,  
Petitioner,  
v.  
RONALD J. RACKLEY,  
Respondent.

No. 2:13-cv-2356 JAM GGH P

ORDER

Petitioner, a state prisoner proceeding pro se, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This court denied the petition on the merits, and declined to issue a certificate of appealability. (ECF No. 43.) Petitioner has appealed and has filed a motion to proceed in forma pauperis. The motion is denied.

A party who was permitted to proceed in forma pauperis in the district court may proceed in forma pauperis on appeal without further authorization unless the district court certifies that the appeal is not taken in good faith. Fed. R.App. P. 24(a)(3). In the instant case, petitioner paid the filing fee in the district court. Thus, petitioner is not automatically entitled to proceed in forma pauperis on appeal.

Regardless, Fed. R.App. P. 24(a)(3)(A) provides for the denial of an in forma pauperis application if “the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in

1 forma pauperis and states in writing its reasons for the certification or finding.”

2 In the instant case, the court finds that this appeal is not taken in good faith, for the  
3 reasons stated in the magistrate judge’s findings and recommendations, (ECF No. 36), and in this  
4 court’s order adopting them. (ECF No. 43.) For these reasons, plaintiff’s motion to proceed in  
5 form pauperis on appeal is denied as the appeal is not in good faith.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Petitioner’s motion to proceed in forma pauperis on appeal (ECF No. 46) is denied;  
8 2. The Clerk of the Court shall notify the Ninth Circuit Court of Appeals of this order.

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10 DATED: July 7, 2015

/s/ John A. Mendez  
UNITED STATES DISTRICT COURT JUDGE

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