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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 RICHARD STEVEN JOHNSON,

No. 2:16-cv-745 GGH

12 Petitioner,

13 v.

ORDER

14 NEIL McDOWELL, Warden,

15 Respondent.
16

17 Petitioner is a state prisoner who filed his Petition for Habeas Corpus on April 11, 2016.
18 ECF No. 1. On March 29, 2017 this court entered an Order denying the petition, ECF No. 17,
19 and judgment was entered on the matter on March 30, 2017. ECF No. 18. On April 14, 2017
20 petitioner filed a Notice of Appeal, ECF No. 19, together with a Motion to Proceed in forma
21 pauperis, ECF No. 20, and a Motion to Appoint Counsel. ECF No. 26. This Order addresses
22 these Motions.

23 1. *Motion to Proceed In Forma Pauperis*

24 Petitioner is entitled to proceed in forma pauperis on appeal without further motion. Fed.
25 Rules App. Pro. Rule 24(a)(3). Nevertheless, the Court has examined the affidavit executed by
26 petitioner in conjunction with his Motion and finds that he is unable to pay the fees and costs
27 associated with the appeal of his petition. As a result, the court will grant this Motion.

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1 2. *Motion to Appoint Counsel*

2 This court has no authority to appoint counsel to represent petitioner on appeal. That is a
3 decision for the appellate court to make. Therefore this Motion will be denied and the Motion
4 will be transferred to the appellate court for decision.

5 In light of the foregoing IT IS THEREFORE ORDERED THAT:

6 1. Petitioner's Motion to Proceed In Forma Pauperis is GRANTED;

7 2. Petitioner's Motion for Appointment of Counsel is DENIED;

8 3. The Clerk of the Court is directed to forward the Motion for Appointment of
9 counsel to the Ninth Circuit Court of Appeals where the appeal is now pending.

10 **IT IS SO ORDERED.**

11 Dated: April 24, 2017

12 /s/ Gregory G. Hollows

13 UNITED STATES MAGISTRATE JUDGE
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