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5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA
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8 JOSEPH BIVINS, a/k/a
9 JOSEPH BERNARD BIVENS,

No. C 07-5643 MHP (pr)

ORDER

10 Petitioner,

11 v.

12 M. C. KRAMER, warden,

13 Respondent.
14 _____/

15 This is the fifth habeas action filed by petitioner to challenge his 1975 conviction. The
16 court dismissed this action without prejudice to petitioner filing a new habeas action if he
17 ever obtained permission from the court of appeals to file a second or successive petition.
18 This court later denied a certificate of appealability, as did the U.S. Court of Appeals for the
19 Ninth Circuit. More than a year later, petitioner attempted to take a second appeal. The
20 Ninth Circuit has dismissed that appeal. Petitioner's motion for leave to proceed in forma
21 pauperis on that second appeal (docket # 20) is DENIED because the appeal is not taken in
22 good faith. See 28 U.S.C. § 1915(a)(3).

23 IT IS SO ORDERED.

24 DATED: November 22, 2010


25 _____
26 Marilyn Hall Patel
27 United States District Judge
28

United States District Court
For the Northern District of California