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

FRANK AND DEBORAH MCDOWELL,

No. C 11-02569 CRB

Plaintiff-Appellants,

**ORDER (1) GRANTING
APPLICATION TO PROCEED *IN
FORMA PAUPERIS*; (2) DENYING
MOTION FOR CERTIFICATE OF
APPEALABILITY**

v.

THE STATE OF CALIFORNIA,

Defendant-Appellee.

On January 6, 2012, Plaintiff-Appellants filed with this Court an Application to Proceed *In Forma Pauperis*, in conjunction with his Notice of Appeal to the United States Court of Appeal for the Ninth Circuit. Dkt. 65. The Ninth Circuit will waive its filing fee when an appellant has obtained in forma pauperis status from the district court. See 9th Cir. R. 3-1; Fed. R. App. P. 24(a). A court may authorize a plaintiff to prosecute an action in federal court without prepayment of fees or security if the plaintiff submits an affidavit showing that he or she is unable to pay such fees or give security therefor. See 28 U.S.C. § 1915(a).

Plaintiff-Appellants have submitted the required documentation, and it appears that because of Plaintiff-Appellants' poverty, they are unable to pay the costs of this action or to give security. Accordingly, the Application is GRANTED.

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Plaintiff-Appellants also filed a Motion for Certificate of Appealability pursuant to 28 U.S.C. §§ 2254 or 2255 on January 6, 2012. Dkt. 65. Plaintiff-Appellants' case does not relate to 28 U.S.C. §§ 2254 or 2255, however, and so no certificate of appealability is necessary. The Motion is DENIED.

IT IS SO ORDERED.



Dated: January 24, 2012

CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE