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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KELVIN X. SINGLETON,  
Petitioner,  
v.  
SCOTT KERNAN,  
Respondent.

Case No. 17-cv-00468 EDL (PR)

**ORDER DENYING CERTIFICATE OF  
APPEALABILITY AS MOOT;  
DENYING MOTION FOR LEAVE TO  
PROCEED IN FORMA PAUPERIS**

Dkt. Nos. 10, 11

Petitioner, a state prisoner proceeding *pro se*, filed a federal petition for writ of habeas corpus. Petitioner paid the filing fee. On March 29, 2017, this Court reviewed Petitioner's petition, and dismissed it for failing to state a claim because the petition did not challenge Petitioner's conviction or length of his sentence, and therefore, habeas jurisdiction was absent. In the same order, the Court denied a certificate of appealability.

Petitioner filed a timely notice of appeal. Thereafter, Petitioner filed a request for a certificate of appealability in this Court, as well as a motion for leave to proceed in forma pauperis. The Court previously denied a certificate of appealability. Thus, Petitioner's request is denied as moot.

In order to proceed in forma pauperis on appeal, a petitioner must file the motion in district court, unless the petitioner has already received prior approval to proceed in forma pauperis. Here, Petitioner paid the \$5.00 filing fee. He has also filed a motion for leave to proceed in forma

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pauperis, as required by Federal Rule of Appellate Procedure 24(a)(1). However, Rule 24(a)(1)(A) specifically requires a petitioner to “show[] in detail prescribed by Form 4 of the Appendix of Forms the party’s inability to pay or to give security for fees and costs.” Here, Petitioner has filed an application, but has not included a statement certified by the appropriate institutional officer showing all receipts, expenditure, and balances during the last six months in his institutional accounts, as required by Form 4. Accordingly, Petitioner’s motion for leave to proceed in forma pauperis is denied without prejudice. Petitioner may renew his motion in the Court of Appeals within thirty days, and should include the affidavit required by Rule 24(a)(1). *See* Fed. R. App. P. 24(a)(5).

The Clerk shall serve notice of this order forthwith to the United States Court of Appeals for the Ninth Circuit and to Petitioner. *See* Fed. R. App. P. 24(a)(4).

**IT IS SO ORDERED.**

DATED: Oct 23, 2017

  
ELIZABETH D. LAPORTE  
UNITED STATES MAGISTRATE JUDGE

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