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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ANTOINE SMITH,  
  
                                Petitioner,  
  
v.  
  
RICHARD KIRKLAND, Warden,  
  
                                Respondent.

Case No. C-05-05168-RMW

**ORDER GRANTING MOTION TO  
APPEAL IN FORMA PAUPERIS**

[Re Docket No. 26, 39]

Petitioner Antoine Smith, a prisoner currently incarcerated at California State Prison, Solano, appeals the dismissal of his habeas corpus petition. The court decides this petition pursuant to Rule 24 of the Federal Rules of Appellate Procedure. Although the court previously denied Smith's motion to proceed in forma pauperis in his petition for a writ of habeas corpus, the filing fee was only \$5. Dkt. No. 11. The filing fee for his appeal is \$455. Smith's average monthly income between January and July of 2012—the most recent provided to the court—was \$18.10. As Smith clearly cannot pay the fee, the court GRANTS Smith's motion to proceed in forma pauperis.

Dated: March 18, 2013

  
Ronald M. Whyte  
United States District Court Judge