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NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MORGAN A. TYSON,)	No. C 07-05784 JF (PR)
)	
Petitioner,)	ORDER DENYING MOTION FOR
)	LEAVE TO APPEAL <i>IN FORMA</i>
vs.)	<i>PAUPERIS</i>
)	
ROBERT L. AYERS, Warden,)	
)	
Respondent.)	
_____)	(Docket No. 11)

Petitioner, a state prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the California Board of Prison Terms’ denial of parole. On August 31, 2009, the Court denied the instant petition on the merits and entered judgment in favor of Respondent. On September 21, 2009, Petitioner filed a notice of appeal and a motion for leave to proceed in forma pauperis on appeal.¹ (Docket No. 11.)

¹ The Court notes that a certificate of appealability is not required in the instant case. See Rosas v. Nielsen, 428 F.3d 1229, 1232 (9th Cir. 2005) (a state prisoner challenging the Board of Prison Terms’ administrative decision to deny his request for parole does not need to obtain a certificate of appealability).

1 Petitioner was not granted pauper status in the instant action as he paid the full
2 filing fee. Accordingly, Petitioner's motion for leave to proceed in forma pauperis on
3 appeal (Docket No. 11) is DENIED to bringing it directly in the Ninth Circuit for an
4 independent review of the record to determine whether the appeal is frivolous.

5 The clerk shall forward to the Ninth Circuit Court of Appeals the case file with this
6 order. See Fed. R. App. P. 22(b).

7 IT IS SO ORDERED.

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9 Dated: 1/4/10

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JEREMY FOGEL
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

MORGAN A TYSON,
Petitioner,

Case Number: CV07-05784 JF

CERTIFICATE OF SERVICE

v.

ROBERT L AYERS, Warden,
Respondent.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 1/5/10, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Morgan A. Tyson C-81713
CA State Prison-Solano
P.O. Box 4000
18-129L
Vacaville, CA 95696

Dated: 1/5/10

Richard W. Wieking, Clerk