

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 26 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANTWOINE MARQUISE BEALER,

Plaintiff-Appellant,

v.

KERN VALLEY STATE PRISON,

Defendant-Appellee.

No. 18-16182

D.C. No. 1:16-cv-00367-LJO-SKO
Eastern District of California,
Fresno

ORDER

Before: SILVERMAN, GRABER, and GOULD, Circuit Judges.

Bealer's petition for panel rehearing (Docket Entry No. 15) is denied.

No further filings will be entertained in this closed case.

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ORDER

Before: Peter L. Shaw, Appellate Commissioner.

Appellant's Form 4 affidavit accompanying motion for permission to appeal in forma pauperis (Docket Entry No. 4) is construed as a motion to proceed in forma pauperis. So construed, the motion to proceed in forma pauperis (Docket Entry No. 4) is granted. Pursuant to 28 U.S.C. § 1915(b)(1) and (2), however, appellant eventually must pay the full amount of the filing and docketing fees for this appeal.

Accordingly, within 21 days after the date of this order, appellant shall complete and file with this court the enclosed prisoner authorization form, which directs the prison officials at appellant's institution to assess, collect, and forward to the court the \$505.00 filing and docketing fees for this appeal on a monthly basis whenever funds exist in appellant's trust fund account. These fees will continue to be collected regardless of the date or manner of disposition of this

appeal. *See* 28 U.S.C. § 1915(b)(2), (e)(2).

If appellant fails to comply with this order, the Clerk shall dismiss this appeal for failure to prosecute. *See* 9th Cir. R. 42-1.

The opening brief is due October 5, 2018. Because there is no appearance by appellee, briefing will be completed upon the filing of the opening brief. Because appellant is proceeding without counsel, the court waives the excerpts of record requirement. *See* 9th Cir. R. 30-1.2.

The Clerk shall serve this order and a prisoner authorization form on appellant.