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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CLAUDELL EARL MARTIN,

CASE NO. 1:08-cv-00415-LJO-SMS

Plaintiff,

APPEAL NO. 11-15830

v.

ORDER REGARDING PLAINTIFF'S
IN FORMA PAUPERIS STATUS ON APPEAL

JEANNE S. WOODFORD, et al.,

(ECF No. 123)

Defendants.

By notice entered April 14, 2011, the U.S. Court of Appeals for the Ninth Circuit referred this matter to the District Court for the limited purpose of determining whether *in forma pauperis* status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. *See* 28 U.S.C. § 1915(a)(3); *see also Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of *in forma pauperis* status is appropriate where the District Court finds the appeal to be frivolous).

Permitting litigants to proceed *in forma pauperis* is a privilege, not a right. *Franklin v. Murphy*, 745 F.2d 1221, 1231 (9th Cir. 1984); *Williams v. Field*, 394 F.2d 329, 332 (9th Cir.), *cert. denied*, 393 U.S. 891 (1968); *Williams v. Marshall*, 795 F.Supp. 978, 978-79 (N.D. Cal. 1992). This action was proceeding against Defendants for deliberate indifference to Plaintiff's

1 medical needs and judgment was granted on Defendants' motion for summary judgment. Since
2 Plaintiff's action was proceeding on his allegation of being denied a constitutional right, the
3 appeal is not frivolous or taken in bad faith.
4

5 Accordingly, it is hereby ORDERED that Plaintiff's *in forma pauperis status* should
6 continue for this appeal and the Clerk of Court is directed to serve a copy of this Order on
7 Plaintiff and the United States Court of Appeals for the Ninth Circuit.
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11 IT IS SO ORDERED.

12 Dated: April 15, 2011

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE

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