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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ERIC CHARLES RODNEY KNAPP,)	1:08-cv-01779-AWI-BAM (PC)
)	
Plaintiff,)	NOTICE AND ORDER REVOKING IN
)	FORMA PAUPERIS STATUS
v.)	
)	(ECF No. 159)
)	
MATTHEW CATE, et al.,)	
)	
Defendants.)	
)	
)	

By notice entered October 24, 2013, the United States 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 appropriate where 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). If a plaintiff with in forma pauperis status brings a case without arguable substance in law and fact, the court may declare the case frivolous. *Franklin*, 745 F.2d at 1227. By its Order Partially Adopting Findings and Recommendations Issued on August 12, 2013, and Order Denying Plaintiff’s Requests for Injunctions as Moot, this Court granted Defendants’ motion for

1 summary judgment. In so doing, the Court found that Plaintiff essentially admitted that he was
2 never double-celled during the relevant time period and that Defendants could not have been
3 “deliberately indifferent” to his need for a single cell and he could not have been subjected to
4 “cruel and unusual punishment” in violation of the Eighth Amendment. (ECF No. 154.)
5 Plaintiff’s appeal therefore lacks an arguable basis in law and fact.

6 Accordingly, it is hereby ORDERED that:

- 7 1. This matter is declared frivolous;
- 8 2. Pursuant to 28 U.S.C. § 1915(a)(3), Plaintiff is not entitled to proceed in forma
9 pauperis in Appeal No. 13-17108, filed October 15, 2013;
- 10 3. Pursuant to Federal Rule of Appellate Procedure 24(a)(4), this Order serves as
11 notice to the parties and the United States Court of Appeals for the Ninth Circuit of the finding
12 that Plaintiff is not entitled to proceed in forma pauperis for this appeal; and
- 13 4. The Clerk of Court is directed to serve a copy of this Order on Plaintiff and the
14 United States Court of Appeals for the Ninth Circuit.

15
16 IT IS SO ORDERED.

17 Dated: October 29, 2013



18 SENIOR DISTRICT JUDGE