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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

BRYAN E. RANSOM,

CASE NO. 1:08-cv-01812-AWI-GBC (PC)

Plaintiff,

**NOTICE AND ORDER FINDING THAT  
PLAINTIFF IS NOT ENTITLED TO  
PROCEED IN FORMA PAUPERIS ON  
THE APPEAL FILED DECEMBER 15, 2010**

v.

J. MARTINEZ, et al.,

Defendants.

**ORDER DIRECTING CLERK’S OFFICE  
TO SERVE COPY OF ORDER ON NINTH  
CIRCUIT**

Plaintiff Bryan E. Ransom is a prisoner who was proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On December 6, 2010, the Court filed findings and recommendations which recommended to grant Defendants’ motion to revoke Plaintiff’s in forma pauperis status. (Doc. 41) Plaintiff filed a notice of appeal on December 15, 2010. (Doc. 44.).

Pursuant to the Federal Rules of Appellate Procedure,

A party who was permitted to proceed in forma pauperis in the district-court action . . . may proceed on appeal in forma pauperis without further authorization, unless:  
(A) the district court - before or after the notice of appeal is filed - certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding;  
or  
(B) a statute provides otherwise.

Fed. R. App. P. 24(a)(3).

The district clerk must immediately notify the parties and the court of appeals when the district court does any of the following:

1 (A) denies a motion to proceed on appeal in forma pauperis;  
2 (B) certifies that the appeal is not taken in good faith; or  
3 (C) finds that the party is not otherwise entitled to proceed in forma pauperis.

4 Fed. R. App. P. 24(a)(4).

5 Because Plaintiff was proceeding in forma pauperis in this action in the district court,  
6 Plaintiff is entitled to proceed in forma pauperis on appeal unless the Court makes a finding to the  
7 contrary. For the reason that follows, the Court finds that Plaintiff is not entitled to proceed in forma  
8 pauperis on his appeal filed December 15, 2010.

9 28 U.S.C. § 1915 governs proceedings in forma pauperis. Section 1915(g) provides that “[i]n  
10 no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on 3 or more  
11 prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court  
12 of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state  
13 a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious  
14 physical injury.” Plaintiff became subject to section 1915(g) on January 10, 2002, when he sustained  
15 a third dismissal for failure to state a claim upon which relief may be granted.<sup>1</sup> Because Plaintiff is  
16 subject to section 1915(g) and does not meet the imminent danger exception, Plaintiff is not entitled  
17 to proceed in forma pauperis on appeal. Fed. R. App. P. 24(a)(4)(C).

18 Based on the foregoing, it is HEREBY ORDERED that:

19 1. Pursuant to 28 U.S.C. § 1915(g), Plaintiff is not entitled to proceed in forma pauperis  
20 on the appeal filed on December 15, 2010;

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26 <sup>1</sup> The Court takes judicial notice of the following cases: Among the dismissals that count as strikes for  
27 Plaintiff under 1915(g) are: Ransom v. Doe, et al., 2:96-cv-08204-RSWL-CT-PC (dismissed for failure to state a  
28 claim on 12/04/96); Ransom v. Williams, et al., 2:96-cv-08203-MRP-CT-PC (dismissed for failure to state a claim  
on 12/06/96); Ransom v. Sandoval, et al., 3:01-cv-00513-JM-JAH-PC (dismissed for failure to state a claim on  
01/10/02).

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- 2. Pursuant to Federal Rule of Appellate Procedure 24(a)(4)(C), this order serves as notice to the parties and the United States Court of Appeals for the Ninth Circuit of the finding that Plaintiff is not entitled to proceed in forma pauperis for this appeal; and
- 3. The Clerk of the Court shall serve a copy of this order on Plaintiff and the United States Court of Appeals for the Ninth Circuit.

IT IS SO ORDERED.

Dated: February 15, 2011

  
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CHIEF UNITED STATES DISTRICT JUDGE