

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAMISI JERMAINE CALLOWAY,
Plaintiff,
v.
A. K. SCRIBNER, et al.,
Defendants.

Case No. 1:11-cv-00803 DLB PC
Appeal No. 14-17431

**NOTICE AND ORDER FINDING THAT
APPEAL WAS TAKEN IN GOOD FAITH**

(ECF No. 71)

Plaintiff Jamisi Jermaine Calloway, a prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on May 17, 2011. On December 2, 2014, the Court dismissed the complaint and directed the Clerk of Court to close the case. Judgment was entered on the same date. Plaintiff filed a notice of appeal on December 10, 2014, and on January 22, 2015, the United States Court of Appeals for the Ninth Circuit referred the matter to the district court for a determination whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. 28 U.S.C. § 1915(a)(3).

An appeal is taken in good faith if the appellant seeks review of any issue that is not frivolous. Gardner v. Pogue, 558 F.2d 548, 550-51 (9th Cir. 1977); see also Hooker v. American Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002) (if at least one issue or claim is non-frivolous, the appeal must proceed in forma pauperis as a whole). In this case, the Court does not find that the appeal is frivolous or taken in bad faith.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Accordingly, the Court HEREBY ORDERS as follows:

1. Pursuant to 28 U.S.C. § 1914(a)(3), the Court finds that the appeal is not frivolous or taken in bad faith; and
2. The Clerk of the Court shall serve this order on Plaintiff and the Court of Appeals for the Ninth Circuit.

IT IS SO ORDERED.

Dated: January 27, 2015

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE