

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

STEWART MANAGO,

USDC CASE NO. 1:11-cv-01269-GBC PC

Plaintiff,

USCA CASE NO. 12-15497

v.

ORDER REQUESTING REMAND AFTER AN  
INDICATIVE RULING PER FEDERAL RULE  
OF APPELLATE PROCEDURE 12.1

GONZALEZ, et al.,

Defendants.

(Docs. 9, 10, 11, 12, 13, 14)

ORDER DIRECTING CLERK'S OFFICE TO  
SERVE THIS ORDER ON APPELLATE  
COURT

Plaintiff Stewart Manago is a state prisoner who was proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983.

On December 22, 2012, an order issued revoking Plaintiff's in forma pauperis status pursuant to 28 U.S.C. § 1915(g) finding that Plaintiff already had accumulated three strikes under that section and failed to state allegations sufficient to meet the exception of showing that he was in imminent danger of serious physical injury. (Doc. 9.) On December 22, 2011 and December 30, 2011, Plaintiff filed for reconsideration of that order. (Docs. 10, 11.) Both of these requests for reconsideration were denied, the case was closed, and judgment was entered. (Docs. 12, 13.) Plaintiff appealed both the order denying reconsideration which dismissed the action and the entry of judgment. (Doc. 14.) This appeal is currently pending before the United States Court of Appeals for the Ninth Circuit.

1 Reconsideration of the order revoking Plaintiff's in forma pauperis status is appropriate and  
2 should be granted since Plaintiff's allegations (that he was wrongly validated as a Black Gorilla  
3 Family member when he is in fact a long-time member of Project Watts Crips and that these are  
4 documented enemies in the California Department of Rehabilitation and Corrections) meet the  
5 imminent danger exception to section 1915(g).

6 Given Plaintiff's allegations of imminent danger, the Court HEREBY REQUESTS for the  
7 Ninth Circuit Court of Appeals to dismiss Plaintiff's current appeal, without retaining jurisdiction,  
8 and remand this case under Federal Rule of Appellate Procedure 12.1(b) and to grant leave to the  
9 undersigned court to grant relief from the judgment entered, pursuant Federal Rules of Civil  
10 Procedure Rule 60, for further proceedings to be conducted in this case.

11 Further, the Court HEREBY DIRECTS the Clerk of the Court to serve a copy of this  
12 order on the Ninth Circuit Court of Appeals.

13 IT IS SO ORDERED.

14 Dated: April 11, 2012

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16 CHIEF UNITED STATES DISTRICT JUDGE  
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