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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

HERSHEL C. MITCHELL,	)	1:12-cv-01259 BAM (PC)
	)	
Plaintiff,	)	ORDER REGARDING IN FORMA
	)	PAUPERIS STATUS ON APPEAL
vs.	)	
	)	
MATTHEW CATES, et al.,	)	
	)	
Defendants.	)	

Plaintiff Hershel C. Mitchell (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action on August 2, 2012. The action was dismissed with prejudice on November 4, 2013. Plaintiff filed a notice of appeal on November 21, 2013.

On November 25, 2013, the Ninth Circuit Court of Appeals referred the matter back to this Court for the limited purpose of determining whether in forma pauperis status should continue for the appeal, or whether the appeal is frivolous or taken in bad faith. 28 U.S.C. § 1915(a)(3).

The Court finds that this appeal is not taken in bad faith and is not frivolous. Accordingly, in forma pauperis status should not be revoked and should continue on appeal. IT IS SO ORDERED.

Dated: November 26, 2013

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE