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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SCOTT HERD,)	1:12-cv-01674-AWI-BAM (PC)
)	
Plaintiff,)	ORDER REGARDING IN FORMA
)	PAUPERIS STATUS ON APPEAL
vs.)	
)	
JAMES D. HARTLEY, et al.,)	
)	
Defendants.)	

Plaintiff Scott Herd (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action on June 6, 2012. On July 1, 2014, the Court dismissed this action for failure to state a cognizable section 1983 claim and judgment was entered. On October 29, 2014, the Court denied Plaintiff’s motion to alter or amend the judgment. Plaintiff filed a notice of appeal on December 1, 2014.

On December 5, 2014, 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: December 8, 2014

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE