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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

LAKEITH L. MCCOY,  
Plaintiff,  
v.  
S. CACCIOLA, et al.,  
Defendants.

Case No. 1:13-cv-00995-LJO-SKO PC  
Appeal No. 14-15163

**NOTICE AND ORDER FINDING THAT  
APPEAL WAS NOT TAKEN IN GOOD  
FAITH**

(Docs. 18 and 21)

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Plaintiff LaKeith L. McCoy, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on June 28, 2013. On January 14, 2014, the Court denied Plaintiff's motions for preliminary injunctive relief. Plaintiff filed a notice of appeal on January 27, 2014, and on January 29, 2014, the United States Court of Appeals for the Ninth Circuit referred the matter to the district court for a determination whether the appeal is frivolous or taken in bad faith. Fed. R. App. 24(a)(3)(A).

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) (*States*, 369 U.S. 438, 445, 82 S.Ct. 917 (1962)) (quotation marks omitted); *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 instance, Plaintiff is citing *Coppedge v. United* challenging the determination that he is not entitled to preliminary injunctive relief. Plaintiff failed to identify

1 any specific issues being appealed; and the Court can discern no basis for Plaintiff's appeal, other  
2 than his mere disagreement with the ruling, which does not suffice to demonstrate a good faith  
3 basis for the appeal.

4 Accordingly, the Court HEREBY ORDERS as follows:

5 1. Pursuant to Fed. R. App. P. 24(a)(3)(A), the Court finds that the appeal was not  
6 taken in good faith; and

7 2. Pursuant to Fed. R. App. P. 24(a)(4)(B), the Clerk of the Court shall serve this  
8 order on Plaintiff and the Court of Appeals for the Ninth Circuit.

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10 IT IS SO ORDERED.

11 Dated: January 30, 2014

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE

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