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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GREGORY ELL SHEHEE,)	1:14-cv-00122-LJO-BAM (PC)
)	
Plaintiff,)	NOTICE AND ORDER REVOKING IN
)	FORMA PAUPERIS STATUS
v.)	(ECF No. 23)
)	
YVONNE BEUSTER, et al.,)	
)	
Defendants.)	
)	
)	

By notice entered March 13, 2015, the United States Court of Appeals for the Ninth Circuit referred this matter to the District Court for the limited purpose of determining whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. See 28 U.S.C. § 1915(a)(3); see also *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of in forma pauperis status is appropriate where the District Court finds the appeal to be frivolous).

Permitting litigants to proceed in forma pauperis is a privilege, not a right. *Franklin v. Murphy*, 745 F.2d 1221, 1231 (9th Cir. 1984); *Williams v. Field*, 394 F.2d 329, 332 (9th Cir., cert. denied, 393 U.S. 891 (1968)); *Williams v. Marshall*, 795 F.Supp. 978, 978-79 (N.D. Cal. 1992). A federal court may dismiss a claim filed in forma pauperis prior to service if it is satisfied that the action is frivolous or malicious. 28 U.S.C. § 1915(e)(2); see *Sully v. Lungren*, 842 F.Supp. 1230, 1231 (N.D. Cal. 1994). If a plaintiff with in forma pauperis status brings a

1 case without arguable substance in law and fact, the court may declare the case frivolous.
2 *Franklin*, 745 F.2d at 1227.

3 Here, the Magistrate Judge screened Plaintiff's complaint and dismissed it for failure to
4 state a claim. Plaintiff was granted leave to amend, but failed to file an amended complaint. As
5 a result, the Magistrate Judge issued findings and recommendations that Plaintiff's action be
6 dismissed for failure to state a claim and failure to amend. Plaintiff did not file any objections
7 and the Court adopted the Magistrate Judge's findings and recommendations in full. Despite the
8 failure to amend his complaint or to file any objections, Plaintiff is now appealing dismissal of
9 this action.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The appeal is declared frivolous and not taken in good faith;
- 12 2. Pursuant to 28 U.S.C. § 1915(a)(3), Plaintiff is not entitled to proceed in forma
13 pauperis in Appeal No. 15-15450, filed March 10, 2015;
- 14 3. Pursuant to Federal Rule of Appellate Procedure 24(a)(4), this Order serves as
15 notice to the parties and the United States Court of Appeals for the Ninth Circuit of the finding
16 that Plaintiff is not entitled to proceed in forma pauperis for this appeal; and
- 17 4. The Clerk of the Court is directed to serve a copy of this Order on Plaintiff and
18 the United States Court of Appeals for the Ninth Circuit.

19 IT IS SO ORDERED.

20 Dated: March 16, 2015

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