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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GREGORY ELL SHEHEE,

Plaintiff,

v.

MEILCA VILLALOBOS,

Defendant.

Case No. 1:14-cv-00622-LJO-DLB PC

Appeal No. 15-15844

**NOTICE AND ORDER FINDING THAT
APPEAL IS FRIVOLOUS**

(ECF No. 16)

_____ /

Plaintiff Gregory Ell Shehee, a prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 28, 2014. On April 13, 2015, the Court dismissed the complaint without leave to amend and directed the Clerk of Court to close the case. Judgment was entered on the same date. Plaintiff filed a notice of appeal on April 24, 2015, and on April 28, 2015, the United States Court of Appeals for the Ninth Circuit referred the matter to the district court for a determination whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. 28 U.S.C. § 1915(a)(3).

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); 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 case, the Court finds that the appeal is frivolous. Hooker, 302 F.3d at 1092.

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Accordingly, the Court HEREBY ORDERS as follows:

1. Pursuant to 28 U.S.C. § 1914(a)(3), the Court finds that the appeal is frivolous;
2. The Court elects to revoke in forma pauperis status; and
3. The Clerk of the Court shall serve this order on Plaintiff and the Court of Appeals for the Ninth Circuit.

IT IS SO ORDERED
Dated: April 29, 2015

/s/ Lawrence J. O'Neill
United States District Judge