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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ARCHIE CRANFORD,

Plaintiff,

v.

PROWN,

Defendant.

Case No. 1:14-cv-00910-AWI-JLT (PC)
Appeal No. 15-15333

**NOTICE AND ORDER FINDING THAT
PLAINTIFF IS NOT ENTITLED TO
PROCEED IN FORMA PAUPERIS ON
THE APPEAL FILED MARCH 10, 2014**

**ORDER DIRECTING CLERK'S OFFICE
TO SERVE COPY OF ORDER ON NINTH
CIRCUIT**

_____ /

This civil rights action was filed pursuant to 42 U.S.C. § 1983 by Plaintiff Archie Cranford, a civil detainee proceeding *pro se* and *in forma pauperis*, on June 13, 2014. Initially the action proceeded on Plaintiff's original complaint. However, subsequent to service, Defendant moved for a more definite statement as unable to formulate a response/defense on the original complaint. This motion was granted and Plaintiff was ordered to submit an amended complaint specifying dates and details of the incidents upon which he based his claims. Plaintiff failed to file an amended complaint and failed to file a sufficient response to the order to show cause why the action should not be dismissed for his failure to comply with the Court's order. Findings and Recommendations issued to dismiss the action issued and was adopted. The case was dismissed on February 12, 2015 and Judgment was entered that same date. Plaintiff filed a notice of appeal on February 23, 2015.

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1 Pursuant to the Federal Rules of Appellate Procedure,

2 A party who was permitted to proceed in forma pauperis in the district-court action
3 . . . may proceed on appeal in forma pauperis without further authorization, unless:
4 (A) the district court - before or after the notice of appeal is filed - certifies that the
5 appeal is not taken in good faith or finds that the party is not otherwise entitled to
6 proceed in forma pauperis and states in writing its reasons for the certification or
7 finding;
8 or
9 (B) a statute provides otherwise.

10 Fed. R. App. P. 24(a)(3).

11 The district clerk must immediately notify the parties and the court of appeals
12 when the district court does any of the following:
13 (A) denies a motion to proceed on appeal in forma pauperis;
14 (B) certifies that the appeal is not taken in good faith; or
15 (C) finds that the party is not otherwise entitled to proceed in forma pauperis.

16 Fed. R. App. P. 24(a)(4).

17 Further, "[a]n appeal may not be taken in forma pauperis if the trial court certifies in
18 writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3).

19 Because Plaintiff was proceeding *in forma pauperis* in this action in the district court,
20 Plaintiff is entitled to proceed in forma pauperis on appeal unless the Court makes a finding to the
21 contrary. For the reason that follows, the Court finds that Plaintiff is not entitled to proceed in
22 forma pauperis on his appeal filed February 23, 2015.

23 Plaintiff merely needed to file an amended complaint to avoid dismissal of this action and
24 he was given three opportunities to do so. Despite this, Plaintiff failed to file an amended
25 complaint and failed to provide justification for failing to amend. Given this, Plaintiff's appeal of
26 dismissal for his failure to comply with the court's order to file an amended complaint is frivolous
27 and is not taken in good faith. *See* 28 U.S.C. 1913(a)(3); *see also Hooker v. American Airlines*,
28 302 F.3d 1091, 1092 (9th Cir. 2002). Thus, Plaintiff is not entitled to proceed in forma pauperis
on appeal. Fed. R. App. P. 24(a)(3)(A) & (a)(4)(B).

Based on the foregoing, it is HEREBY ORDERED that:

1. Pursuant to 28 U.S.C. § 1915(g), Plaintiff is not entitled to proceed in forma pauperis on the appeal filed on February 23, 2015;
2. Pursuant to Federal Rule of Appellate Procedure 24(a)(4)(C), this order serves as

1 notice to the parties and the United States Court of Appeals for the Ninth Circuit of the finding
2 that Plaintiff is not entitled to proceed in forma pauperis for this appeal; and

3 3. The Clerk of the Court shall serve a copy of this order on Plaintiff and the United
4 States Court of Appeals for the Ninth Circuit.

5
6 IT IS SO ORDERED.

7 Dated: March 3, 2015



SENIOR DISTRICT JUDGE

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