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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA  
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9 ARCHIE CRANFORD,

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

10 Plaintiff,

11 v.

12 PROWN,

13 Defendant.

**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**

16 \_\_\_\_\_ /  
17 This civil rights action was filed pursuant to 42 U.S.C. § 1983 by Plaintiff Archie  
18 Cranford, a civil detainee proceeding *pro se* and *in forma pauperis*, on June 13, 2014. Initially the  
19 action proceeded on Plaintiff's original complaint. However, subsequent to service, Defendant  
20 moved for a more definite statement as unable to formulate a response/defense on the original  
21 complaint. This motion was granted and Plaintiff was ordered to submit an amended complaint  
22 specifying dates and details of the incidents upon which he based his claims. Plaintiff failed to file  
23 an amended complaint and failed to file a sufficient response to the order to show cause why the  
24 action should not be dismissed for his failure to comply with the Court's order. Findings and  
25 Recommendations issued to dismiss the action issued and was adopted. The case was dismissed  
26 on February 12, 2015 and Judgment was entered that same date. Plaintiff filed a notice of appeal  
27 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).

29 Based on the foregoing, it is HEREBY ORDERED that:

30 1. Pursuant to 28 U.S.C. § 1915(g), Plaintiff is not entitled to proceed in forma  
31 pauperis on the appeal filed on February 23, 2015;

32 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.

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6 IT IS SO ORDERED.

7 Dated: March 3, 2015

  
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SENIOR DISTRICT JUDGE

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