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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RICHARD SCOTT KINDRED,  
Plaintiff,  
v.  
KENNETH BELL, et al.,  
Defendants.

Case No. 1:14-cv-01652-AWI-MJS (PC)

**ORDER DENYING PLAINTIFF'S  
MOTION FOR PERMISSION TO  
APPEAL TO THE NINTH CIRCUIT**

**ORDER CONSTRUING MOTION AS  
NOTICE OF APPEAL**

**ORDER DIRECTING CLERK OF COURT  
TO PROCESS ECF NO. 46 AS NOTICE  
OF APPEAL**

(ECF NO. 46)

Plaintiff is a civil detainee proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. The action proceeds on Plaintiff's First Amendment claims against Defendants Bigot and Bell. (ECF Nos. 16, 19.)

Plaintiff filed two motions for injunctive relief requesting that the Court enjoin non-parties from confiscating Plaintiff's Native American religious items and preventing the delivery of religious packages. (ECF Nos. 18, 34.) The undersigned recommended that

1 Plaintiff's motions be denied (ECF No. 41), and the recommendations were adopted in  
2 full by the District Judge. (ECF No. 44.)

3 Plaintiff now seeks permission to appeal the order of the District Judge to the  
4 Ninth Circuit. (ECF No. 46.) Defendants did not respond to the motion and the time for  
5 doing so has passed. This matter is deemed submitted pursuant to Local Rule 230(J).

6 **I. Appeal of Denial of Preliminary Injunction**

7 Courts of appeal have jurisdiction only over "final decisions of the district courts  
8 of the United States." 28 U.S.C. § 1291. However, 28 U.S.C. § 1292(a)(1) permits  
9 appeals of interlocutory orders "granting, continuing, modifying, refusing or dissolving  
10 injunctions, or refusing to dissolve or modify injunctions." Thus, an order denying a  
11 preliminary injunction is an appealable order. See, e.g., Sierra On-Line, Inc. v. Phx.  
12 Software, Inc., 739 F.2d 1415, 1419 n.5 (9th Cir. 1984).

13 Here, Plaintiff requests permission to appeal the denial of his motions for  
14 injunctive relief. (ECF Nos 18, 34). However, pursuant to 28 U.S.C. § 1292(a)(1),  
15 Plaintiff does not need permission to appeal. His request for permission will therefore be  
16 denied.

17 Pro se filings may liberally be construed as valid notices of appeal. United States  
18 v. Gough, 952 F.2d 1400 (9th Cir. 1992) (citing Hollywood v. City of Santa Maria, 886  
19 F.2d 1228, 1232 (9th Cir.1989)) Here, Plaintiff's motion was filed within the time for filing  
20 a notice of appeal, Fed. R. App. P. 4(a)(1)(A), and contains all of the requisite  
21 information, Fed. R. App. P. 3(c). The Court, therefore, will construe Plaintiff's motion  
22 (ECF No. 46) as his notice of appeal.

23 **II. Conclusion and Order**

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

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- 26 1. Plaintiff's motion for permission to appeal to the Ninth Circuit is DENIED;
  - 27 2. Plaintiff's motion is construed as a notice of appeal; and

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3. The Clerk of Court is directed to process ECF No. 46 as a notice of appeal.

IT IS SO ORDERED.

Dated: December 1, 2017

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE