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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MAURICE MILES, SR.,
Plaintiff,
v.
R. COX, et al.,
Defendants.

Case No. 1:14-cv-01683-SKO (PC)
Appeal No. 15-15960

**NOTICE AND ORDER FINDING THAT
APPEAL WAS NOT TAKEN IN GOOD
FAITH**
(Docs. 16 and 19)

Plaintiff Maurice Miles, Sr., a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on October 28, 2014. On April 22, 2015, the Court dismissed the action, with prejudice, for failure to state a claim under section 1983. Plaintiff filed a notice of appeal on May 12, 2015, and on May 14, 2015, the United States Court of Appeals for the Ninth Circuit referred the matter to the district court for a determination whether the appeal is frivolous or taken in bad faith. Fed. R. App. 24(a)(3)(A).

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) (citing *Coppedge v. United States*, 369 U.S. 438, 445, 82 S.Ct. 917 (1962)) (quotation marks omitted); *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). The Court dismissed this action on the ground that Plaintiff's complaint set forth no claims under section 1983 and the Court lacked jurisdiction over Plaintiff's state law defamation claim. In his appeal, Plaintiff failed to

1 identify any legitimate grounds for appeal, and he mischaracterizes the dismissal as sounding in
2 habeas corpus. Concurrently with his notice of appeal, Plaintiff filed a motion for reconsideration,
3 which was denied in a separate order issued concurrently with this order. Similarly, that motion
4 failed to set forth any legitimate grounds for reconsideration and contained arguments that were
5 wholly inapposite. The Court can discern no basis for Plaintiff's appeal other than his mere
6 disagreement with the ruling, which does not suffice to demonstrate a good faith basis for the
7 appeal.

8 Accordingly, the Court HEREBY ORDERS as follows:

9 1. Pursuant to Fed. R. App. P. 24(a)(3)(A), the Court finds that the appeal was not
10 taken in good faith; and

11 2. Pursuant to Fed. R. App. P. 24(a)(4)(B), the Clerk of the Court shall serve this
12 order on Plaintiff and the Court of Appeals for the Ninth Circuit.

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14 IT IS SO ORDERED.

15 Dated: May 14, 2015

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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