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## UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER LIPSEY,

Plaintiff,

V

SATF PRISONS AD-SEG PROPERTY OFFICERS, et al.,

Defendants.

Case No. 1:15-cv-00691-SKO (PC) Appeal No. 17-16116

## ORDER FINDING APPEAL NOT TAKEN IN GOOD FAITH

(Doc. 46)

Plaintiff, Christopher Lipsey, is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action which he filed pursuant to 42 U.S.C. § 1983. On April 20, 2017, the Court dismissed the action without leave to amend. (Docs. 41, 42.) Plaintiff filed a notice of appeal on May 8, 2017, (Doc. 43) and on June 1, 2017, the United States Court of Appeals for the Ninth Circuit referred the matter to this court for a determination, under Federal Rule of Appellate Procedure 24(a)(3)(A), whether the appeal is frivolous or taken in bad faith (Doc. 46).

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); *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 request of an indigent for leave to appeal *in forma pauperis* must be allowed unless "the issues raised are so frivolous that the appeal would be dismissed in the case of a non-indigent litigant." *Ellis v. United States*, 356 U.S. 674, 675 (1958).

The Court dismissed this action on the ground that, after multiple opportunities to amend, claim nos. 1-3 in Plaintiff's Second Amended Complaint set forth no cognizable claims under section 1983 and were dismissed with prejudice, and claim no. 4 exceeded the scope of leave to amend, resulting in dismissal without prejudice. (Doc. 41.) Plaintiff does not identify any legitimate grounds for appeal. The Court can discern no basis for Plaintiff's appeal other than his disagreement with the ruling, which does not suffice to demonstrate good faith. Accordingly: 1. Pursuant to Fed. R. App. P. 24(a)(3)(A), the Court finds that the appeal was not taken in good faith; and 2. Pursuant to Fed. R. App. P. 24(a)(4)(B), 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: **June 6, 2017** UNITED STATES MAGISTRATE JUDGE