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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL ANGELO LENA,
Plaintiff,
v.
PEOPLE OF THE STATE OF CALIFORNIA, et al.,
Defendants.

Case No. 1:16-cv-01036-LJO-SKO (PC)
Appeal No. 17-16367

**ORDER FINDING APPEAL NOT TAKEN
IN GOOD FAITH**

(Doc. 25)

Plaintiff, Michael Angelo Lena, 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 June 1, 2017, the Court dismissed the action and judgment was entered that same day. (Docs. 20, 21.) Plaintiff filed a notice of appeal on June 19, 2017, (Doc. 22) and on July 12, 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. 25).

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

1 the case of a non-indigent litigant.” *Ellis v. United States*, 356 U.S. 674, 675 (1958).

2 The Court dismissed this action on the ground that, after multiple opportunities to file an
3 amended complaint or notify the court of his desire to proceed on claims found cognizable and
4 provide identifying information against Doe defendants, Plaintiff failed to do either. (Doc. 20.)
5 Plaintiff does not identify any legitimate grounds for appeal. The Court can discern no basis for
6 Plaintiff’s appeal other than his mere disagreement with the order that screened his Complaint
7 and gave him leave to amend or to proceed on the claims found cognizable, which does not
8 suffice to demonstrate good faith.

9 Accordingly:

- 10 1. Pursuant to Fed. R. App. P. 24(a)(3)(A), the Court finds that the appeal was not
11 taken in good faith; and
- 12 2. Pursuant to Fed. R. App. P. 24(a)(4)(B), the Clerk of the Court shall serve this
13 order on Plaintiff and the Court of Appeals for the Ninth Circuit.

14
15 IT IS SO ORDERED.

16 Dated: July 14, 2017

/s/ Lawrence J. O’Neill
17 UNITED STATES CHIEF DISTRICT JUDGE