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3 **UNITED STATES DISTRICT COURT**

4 **EASTERN DISTRICT OF CALIFORNIA**

5  
6 RICKY RIVERA,

7 Plaintiff,

8 v.

9 DAVEY, *et al.*,

10 Defendants.  
11

Case No. 1:16-cv-01817-AWI-BAM (PC)

Appeal No. 21-15853

ORDER REGARDING *IN FORMA PAUPERIS*  
STATUS ON APPEAL

12 Plaintiff Ricky Rivera (“Plaintiff”) is a state prisoner who proceeded *pro se* and *in forma*  
13 *pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

14 On April 14, 2021, the Court granted Defendants’ motion to dismiss and dismissed this  
15 action due to Plaintiff’s failure to exhaust available administrative remedies. (ECF No. 62.)  
16 Judgment was entered accordingly the same date. (ECF No. 63.) On May 11, 2021, Plaintiff  
17 filed a notice of appeal. (ECF No. 64.)

18 On June 15, 2021, the Ninth Circuit Court of Appeals referred the matter back to this  
19 Court for the limited purpose of determining whether *in forma pauperis* status should continue for  
20 the appeal. 28 U.S.C. § 1915(a)(3). The Court finds that this appeal is not taken in bad faith and  
21 is not frivolous. Accordingly, *in forma pauperis* status should not be revoked and should  
22 continue on appeal.

23  
24 IT IS SO ORDERED.

25 Dated: June 16, 2021

26 /s/ Barbara A. McAuliffe  
27 UNITED STATES MAGISTRATE JUDGE  
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