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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

GERARDO GONZALES,	)	1:17-cv-00387-LJO-BAM
	)	
Plaintiff,	)	ORDER DIRECTING CLERK OF COURT
	)	TO FORWARD MOTION TO WITHDRAW
v.	)	TO NINTH CIRCUIT COURT OF APPEALS
	)	
BILL RUTLEDGE, et al.,	)	(Doc. No. 19)
	)	
Defendants.	)	ORDER DENYING MOTION TO PROCEED
	)	IN FORMA PAUPERIS ON APPEAL AS
	)	MOOT
	)	
	)	(Doc. No. 18)
	)	
	)	
	)	

Plaintiff Gerardo Gonzales (“Plaintiff”), proceeding *pro se*, initiated this civil action on March 16, 2017. On December 14, 2017, the Court dismissed this action based on Plaintiff’s failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915, and judgment was entered. (Doc. Nos. 13 and 14.) Plaintiff filed a notice of appeal, which was processed to United States Court of Appeals for the Ninth Circuit. (Doc. Nos. 15 and 16.)

On January 4, 2018, Plaintiff filed an application to proceed in forma pauperis on appeal. (Doc. No. 18.) Shortly thereafter, on January 8, 2018, Plaintiff filed a document titled, “Motion to Withdraw Appeal.” (Doc. No. 19.) In that document, Plaintiff states that he “wishes to withdraw his request for appeal on case 1:17-cv-00387-LJO-BAM.” (*Id.* at p. 1.) Plaintiff also

1 states that “[d]ue to unforeseen circumstances in State Court, and needs to refile as advised by  
2 Fifth District Court of Appeals, Fresno.” (*Id.*)

3 Although Plaintiff’s motion does not provide significant information or clear explanation,  
4 it is apparent that Plaintiff wishes to withdraw his appeal in this action. As there is no indication  
5 that Plaintiff concurrently filed his motion in the appellate court, Plaintiff’s motion will be  
6 forwarded to the Ninth Circuit for consideration and the motion will be terminated on this  
7 Court’s docket. Additionally, Plaintiff’s pending motion to proceed in forma pauperis on appeal  
8 shall be denied as moot.

9 Based on the above, IT IS HEREBY ORDERED as follows:

- 10 1. The Clerk of the Court is respectfully directed to forward a copy of Plaintiff’s Motion  
11 to Withdraw Appeal (Doc. No. 19) to the United States Court of Appeals for the  
12 Ninth Circuit and terminate the motion on this Court’s docket; and  
13 2. Plaintiff’s motion to proceed in forma pauperis on appeal (Doc. No. 18) is denied as  
14 moot.

15  
16 IT IS SO ORDERED.

17 Dated: January 11, 2018

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