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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MADHU SAMEER,
Plaintiff,
v.
THE RIGHT MOVE 4 U, *et al.*,
Defendant.

Case No. 1:17-cv-00886-AWI-EPG
ORDER GRANTING PLAINTIFF’S MOTION
FOR PERMISSION TO APPEAL IN FORMA
PAUPERIS
(ECF No. 99)

Madhu Sameer, proceeding *pro se*, has moved for permission to appeal *in forma pauperis* (ECF No. 99).

Permitting litigants to proceed *in forma pauperis* is a privilege, not a right. *Franklin v. Murphy*, 745 F.2d 1221, 1231 (9th Cir. 1984); *Williams v. Field*, 394 F.2d 329, 332 (9th Cir. 1968). A party seeking to appeal *in forma pauperis* (“IFP”) who was not previously granted IFP status in the district-court action must file an IFP motion in the district court that (1) shows “the party’s inability to pay or to give security for fees and costs”; (2) “claims an entitlement to redress”; and (3) “states the issues the party intends to present on appeal.” Fed. R. App. P. 24(a)(1). Further, a motion to appeal IFP can be granted only if the appeal is taken in good faith. *See* 28 U.S.C. § 1915(a)(3). The good faith requirement is satisfied 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 (1962)). An action is frivolous “where it lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

1 Here, Plaintiff has filed a motion and supporting documents showing her inability to pay
2 or give security for fees and costs, claiming her entitlement to redress, and stating the issues she
3 intends to present on appeal. (ECF No. 99.) Plaintiff lists the following issues she intends to raise
4 on appeal:

- 5 • Split between the Trial Court's decision and Supreme Court settled law related to rights of
- 6 pro se litigants and responsibilities of the Judges to ensure those rights are not violated.
- 7 • Conflict between Rule 8 – requiring a short statement – and Rule 9 requiring that fraud be
- 8 plead with specificity and in detail.
- Conflict with settled law that states complaints must be resolved on merits of the case.
- Due process violation, abuse of discretion.

9 (ECF No. 99 at 2.)

10 At the heart of Plaintiff's issues is her claim that the district court should have provided
11 her more clear instructions on what was needed to amend her complaint to meet the criteria
12 required under Federal Rules of Civil Procedure 8 and 9 and/or should have dismissed her
13 amended complaint without prejudice and with leave to amend. The district court had previously
14 allowed Plaintiff to amend her complaint, and the court's dismissal was of Plaintiff's third
15 amended complaint. However, the district court had issued only one previous order in which
16 Plaintiff's complaint was subjected to review under Rule 8 (ECF No. 87 at 7-9).

17 Under these circumstances, this Court finds that Plaintiff's appeal is not frivolous and that
18 Plaintiff's appeal is accordingly taken in good faith.

19 Accordingly, this Court grants Plaintiff permission to appeal *in forma pauperis* (ECF No.
20 99).

21 IT IS SO ORDERED.

22 Dated: June 18, 2018

23 /s/ Eric P. Gray
24 UNITED STATES MAGISTRATE JUDGE