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**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

PAUL WELDON,  
  
Plaintiff,  
  
v.  
  
JONATHAN NICHOLAS KAPETAN, *et*  
*al.*,  
  
Defendants.

**Case No. 1:17-cv-001536-LJO SKO (PC)**  
**Appeal No. 18-16000**

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

(Doc. 18)

Plaintiff, Paul Weldon, 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 (“Section 1983”). On May 9, 2018, the Court dismissed the action without leave to amend. (Docs. 10 & 11) Plaintiff filed a notice of appeal on May 30, 2018 (Doc. 15), 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. 18).

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 (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). A frivolous action is one “lacking [an] arguable basis in law or in fact.” *Franklin v. Murphy*, 745 F.2d 1221, 1225 (9th Cir. 1984). “[T]o determine that an appeal is in good

1 faith, a court need only find that a reasonable person could suppose that the appeal has some merit.”  
2 *Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000).

3 The Court dismissed this action on the ground that (1) his claims did not fall within the  
4 scope of many of the statutes he alleged were violated; (2) any remaining claims under Section  
5 1983 for money damages were barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), and/or various  
6 forms of immunity; (3) any claims under Section 1983 for injunctive relief were otherwise barred;  
7 and (4) Plaintiff failed to raise any cognizable Section 1983 claim for declaratory relief. (*See*  
8 Doc. 10.) After giving Plaintiff an additional opportunity to justify leave to amend (Doc. 8), the  
9 Court dismissed his claims without leave to amend. (Doc. 10.) Plaintiff does not identify any  
10 legitimate grounds for appeal. The Court can discern no basis for Plaintiff’s appeal other than his  
11 mere disagreement with the ruling, which does not suffice to demonstrate good faith.

12 Accordingly:

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

17  
18 IT IS SO ORDERED.

19 Dated: June 11, 2018

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