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

EVAN P. GALVAN,	)	Case No.: 1:18-cv-00688-LJO-SAB (PC)
	)	
Plaintiff,	)	Appeal No. 19-15053
	)	
v.	)	
	)	ORDER DECLINING TO REVOKE IN FORMA
A. LUCAS, et.al.,	)	PAUPERIS STATUS ON APPEAL
	)	(Doc. No. 27)
Defendants.	)	
	)	ORDER DENYING MOTION TO PROCEED IN
	)	FORMA PAUPERIS ON APPEAL, AS
	)	UNNECESSARY
	)	(Doc. No. 24)
	)	
	)	
	)	

Plaintiff Evan P. Galvan is appearing *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On December 18, 2018, the Court dismissed this action, without prejudice, for the failure to exhaust available administrative remedies. (ECF No. 21.) Judgement was entered that same date. (ECF No. 22.)

On January 7, 2019, Plaintiff filed a notice of appeal, (ECF No. 23), and a motion to proceed in forma paupers on appeal, (ECF No. 24). The appeal was processed on January 8, 2019. (ECF No. 25.)

On January 14, 2019, the Ninth Circuit Court of Appeals referred the matter back to this Court for the limited purpose of determining whether *in forma pauperis* status should continue for the appeal. 28 U.S.C. § 1915(a)(3). (ECF No. 16.)

The Court has reviewed the record, and cannot determine that this appeal is frivolous, malicious, or taken in bad faith. See 28 U.S.C. § 1915(a)(3); see also Hooker v. American Airlines, 302 F.3d 1091,

1 1092 (9th Cir. 2002) (revocation of *in forma pauperis* status is appropriate where district court finds the  
2 appeal to be frivolous). Therefore, the Court declines to revoke *in forma pauperis* status.

3 Further, as noted above, Plaintiff proceeded *in forma pauperis* in this action at the district court,  
4 having been granted that status based on an application. (ECF No. 5.) Under Federal Rule of Appellate  
5 Procedure 24(a)(3), generally a party who was permitted to proceed *in forma pauperis* in the district  
6 court action may proceed on appeal *in forma pauperis* without further authorization, unless that status  
7 is revoked. Therefore, Plaintiff's motion to proceed *in forma pauperis* on appeal will be denied, as  
8 unnecessary.

9 Accordingly, it is HEREBY ORDERED that:

- 10 1. This Court declines to revoke Plaintiff's *in forma pauperis* status on appeal;
- 11 2. Plaintiff's motion to proceed *in forma pauperis* on appeal, filed on January 7, 2019 (ECF  
12 No. 24), is denied, as unnecessary; and
- 13 3. The Clerk of the Court is directed to serve a copy of this order on the parties, and on the  
14 United States Court of Appeals for the Ninth Circuit.

15  
16 IT IS SO ORDERED.

17 Dated: January 16, 2019

  
UNITED STATES MAGISTRATE JUDGE