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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HOWARD ALAN ZOCHLINSKI,

Plaintiff,

v.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA, et al.,

Defendants.

No. 2:10-cv-1824-KJM-KJN PS

ORDER

On March 30, 2016, the court granted defendants’ motion to dismiss plaintiff’s first amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), dismissing all of plaintiff’s remaining claims with prejudice. (ECF Nos. 83, 96.) Thereafter, on April 28, 2016, plaintiff filed a notice of appeal and, on May 25, 2016, a motion to proceed in forma pauperis on appeal. (ECF Nos. 98, 100.)

Federal Rule of Appellate Procedure 24 provides that “a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court.” Fed. R. App. P. 24(a)(1). Pursuant to 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” The good faith standard is an objective one. Coppedge v. United States, 369 U.S. 438, 445 (1962). A plaintiff satisfies the “good faith” requirement if he or she seeks review of any issue that is “not frivolous.” Gardner v.

1 Pogue, 558 F.2d 548, 551 (9th Cir. 1977) (quoting Coppedge, 369 U.S. at 445).


2 For the reasons stated in the November 4, 2015 findings and recommendations (see ECF
3 No. 83), adopted by the district judge on March 30, 2016 (ECF No. 96), the court finds that the
4 instant appeal is frivolous. The court thus certifies that plaintiff's appeal is not taken in good
5 faith.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Plaintiff's motion to proceed in forma pauperis on appeal (ECF No. 100) is DENIED.
- 8 2. The Clerk of Court is directed to serve a copy of this order on plaintiff and on the
9 Ninth Circuit Court of Appeals.

10 IT IS SO ORDERED.

11 Dated: June 1, 2016

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14 KENDALL J. NEWMAN
15 UNITED STATES MAGISTRATE JUDGE
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