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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HOWARD ALAN ZOCHLINSKI,
Plaintiff,
v.
RICHARD C. BLUM, et al.,
Defendants.

No. 2:11-cv-3295-KJM-KJN PS

ORDER

On June 10, 2016, the court dismissed the action with prejudice pursuant to Federal Rule of Civil Procedure 41(b) based on plaintiff's failure to failure to prosecute the action and failure to follow the Local Rules and the court's orders. (ECF Nos. 75, 86.) Thereafter, on August 22, 2016, plaintiff filed a notice of appeal as well as a motion to proceed in forma pauperis on appeal. (ECF Nos. 90, 91.)

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

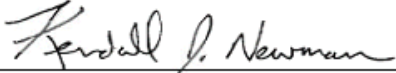
1 For the reasons stated in the December 8, 2015 findings and recommendations (see ECF
2 No. 75), adopted by the district judge on June 10, 2016 (ECF No. 86), the court finds that the
3 instant appeal is frivolous. The court thus certifies that plaintiff's appeal is not taken in good
4 faith.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. Plaintiff's motion to proceed in forma pauperis on appeal (ECF No. 91) is DENIED.
- 7 2. The Clerk of Court is directed to serve a copy of this order on plaintiff and on the
8 Ninth Circuit Court of Appeals.

9 IT IS SO ORDERED.

10 Dated: August 24, 2016

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13 KENDALL J. NEWMAN
14 UNITED STATES MAGISTRATE JUDGE
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