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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALEXIOS ALEXANDER,

Plaintiff,

No. 2:12-cv-0445 WBS EFB P

vs.

Court of Appeals No. 12-17397

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND REHABILITATION,  
et al.,

Defendants.

ORDER

\_\_\_\_\_ /  
This matter has been referred to this court by the Court of Appeals for the limited purpose of determining whether in forma pauperis status should continue for appeal. See 28 U.S.C. § 1915(a)(3). For the reasons explained in detail in the Magistrate Judge’s Findings and Recommendations, filed August 13, 2012, this court finds plaintiff’s appeal is frivolous. Therefore plaintiff’s forma pauperis status will be revoked on appeal. See Hooker v. American Airlines, 302 F. 3d 1091, 1092 (9th Cir. 2002).


On October 15, 2012, plaintiff has also filed a Motion for Certificate of Appealability. This is a civil action under 42 U.S.C. § 1983, not a habeas corpus proceeding. Accordingly, the provisions of 28 U.S.C. § 2253, dealing with certificates of appealability, are inapplicable.

1 IT IS THEREFORE ORDERED that plaintiff's forma pauperis status be  
2 REVOKED on appeal;

3 AND IT IS FURTHER ORDERED that plaintiff's motion for a certificate of  
4 appealability be, and the same hereby is, DENIED.

5 The Clerk of this Court is hereby ordered to forthwith transmit a copy of this  
6 Order to the Clerk of the United States Court of Appeals for the Ninth Circuit.

7 DATED: October 30, 2012

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9 WILLIAM B. SHUBB  
10 UNITED STATES DISTRICT JUDGE  
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