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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANTHONY L. ROBINSON,
Plaintiff,
v.
GOVERNOR JERRY BROWN et al.,
Defendants.

No. 2:12-cv-01776-MCE-DAD

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action seeking relief under 42 U.S.C. § 1983. Plaintiff alleges that he is a member of the House of Yahweh faith, and when he asked Defendants Elia and Goeke for access to the chapel at California State Prison, Sacramento (“CSP-Sacramento”) in 2009, they refused him such access. On August 15, 2014, the Court dismissed this action because it is barred by the doctrines of res judicata and collateral estoppel. ECF Nos. 27, 35. On September 15, 2014, Plaintiff filed a notice of appeal. ECF No. 37.

On September 29, 2014, the United States Court of Appeals for the Ninth Circuit referred the matter back to this Court for the limited purpose of determining whether Plaintiff’s in forma pauperis status should continue on appeal or whether that status should be revoked because the appeal is frivolous or taken in bad faith. ECF No. 40. See 28 U.S.C. § 1915(a)(3); see also Hooker v. American Airlines, 302 F.3d 1091, 1092

1 (9th Cir. 2002) (revocation of forma pauperis status is appropriate where district court
2 finds the appeal to be frivolous). An issue is frivolous if it has “no arguable basis in fact
3 or law.” O’Loughlin v. Doe, 920 F.2d 614, 617 (9th Cir. 1990).

4 The Court finds that Plaintiff’s appeal is taken in bad faith because the issue
5 presented, whether Plaintiff was unlawfully denied chapel access at CSP-Sacramento,
6 was previously litigated and is now barred by the doctrines of res judicata and collateral
7 estoppel. See ECF Nos. 27, 35.

8
9 **CONCLUSION**


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11 For the reasons set forth above, IT IS HEREBY ORDERED that:

12 1. Plaintiff’s in forma pauperis status is hereby REVOKED; and

13 2. The Clerk of the Court is ordered to TRANSMIT a copy of this Order to the
14 Clerk of the Court of the United States Court of Appeals for the Ninth Circuit for filing on
15 the docket of Case No. 14-16859.

16 IT IS SO ORDERED.

17 Dated: October 7, 2014

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21 MORRISON C. ENGLAND, JR., CHIEF JUDGE
22 UNITED STATES DISTRICT COURT
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