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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAYMOND LEON JOHNSON,
Plaintiff,
v.
MOON J. JEU, JOSEPH TORRUELLA,
and SHANKARI REDDY,
Defendants.

No. 2:12-cv-1843 KJN P

ORDER

The Ninth Circuit Court of Appeals has referred to the undersigned the limited question whether plaintiff’s in forma pauperis status should continue pursuant to the appeal of this court’s dismissal of this action on December 23, 2013. See 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.”).¹ The Federal Rules of Appellate Procedure provide as follows:

[A] party who has been permitted to proceed in an action in the district court in forma pauperis . . . may proceed on appeal in forma pauperis without further authorization unless . . . the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed

Fed. R. App. P. 24(a).

¹ The Ninth Circuit referenced two case numbers: 14-15093 and 14-15088. This response addresses both referral notices.

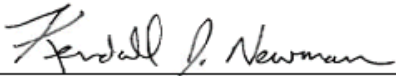
1 This court finds no reason to revoke petitioner's in forma pauperis status. This court
2 found that plaintiff failed to exhaust his administrative remedies as to his claims against
3 defendants Jeu and Torruella, and that plaintiff failed to state a claim against defendant Reddy.
4 However, the court did not find that plaintiff's allegations were frivolous.

5 Plaintiff's appeal appears to be neither frivolous, see Coppedge v. United States, 369 U.S.
6 438, 445 (1962) (an appeal of a nonfrivolous issue is assumed to be made in good faith), nor
7 unreasonable, see Walker v. O'Brien, 216 F.3d 626, 631 (7th Cir. 2000) ("to determine that an
8 appeal is in good faith, a court need only find that a reasonable person could suppose that the
9 appeal has some merit"). Therefore, there does not presently appear to be a basis for finding that
10 plaintiff's appeal is taken in bad faith. See Fed. R. App. P. 24(a)(3)(A); 28 U.S.C. § 1915(a)(3).

11 Accordingly, the undersigned finds that plaintiff should be entitled to continue proceeding
12 in forma pauperis pursuant to the appeal of this action.

13 Dated: February 3, 2014

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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