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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VINCENT HENRY BARTNING et al.,
Plaintiffs,
v.
OHIO NORTHERN UNIVERSITY, et al.,
Defendants.

No. 2:13-cv-1540-MCE-KJN PS

ORDER

On September 3, 2013, the court dismissed this action without prejudice for improper venue pursuant to 28 U.S.C. § 1406(a), or alternatively, pursuant to 28 U.S.C. § 1404(a). (ECF No. 6.) On November 4, 2013, plaintiff, who had proceeded without counsel and in forma pauperis in the district court, filed a notice of appeal. (ECF No. 8.) Thereafter, on November 5, 2013, the Ninth Circuit Court of Appeals referred this matter to the district court for the limited purpose of determining whether in forma pauperis status should continue for the appeal, or whether the appeal is frivolous or taken in bad faith. (ECF No. 10.)

“An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3); see also Hooker v. American Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of in forma pauperis status appropriate where district court finds the appeal to be frivolous). The good faith standard under 28 U.S.C. § 1915 is an objective one. Coppedge v. United States, 369 U.S. 438, 445 (1962). A plaintiff satisfies the

1 “good faith” requirement if he or she seeks review of any issue that is “not frivolous.” Gardner v.
2 Pogue, 558 F.2d 548, 551 (9th Cir. 1977) (quoting Coppedge, 369 U.S. at 445).

3 For the reasons stated in the August 7, 2013 findings and recommendations (see ECF No.
4 4), and the September 3, 2013 order by the district judge adopting those findings and
5 recommendations (ECF No. 6), the court finds that the instant appeal is frivolous. The court thus
6 certifies that plaintiff’s appeal is not taken in good faith, and concludes that plaintiff’s in forma
7 pauperis status should not continue for purposes of the appeal.


8 Accordingly, IT IS HEREBY ORDERED that:

9 1. Plaintiff’s in forma pauperis status is REVOKED.

10 2. The Clerk of Court is directed to serve a copy of this order on plaintiff and on the
11 Ninth Circuit Court of Appeals.

12 IT IS SO ORDERED.

13 Dated: November 7, 2013

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16 KENDALL J. NEWMAN
17 UNITED STATES MAGISTRATE JUDGE
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