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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNIS GARDNER,  
  
                                Plaintiff,  
  
                                v.  
  
JASON BAUER,  
  
                                Defendant.

No. 2:14-cv-2908-KJM-KJN PS

ORDER

On June 4, 2015, the court dismissed this action. (ECF No. 13.) On June 17, 2015, plaintiff, who had proceeded without counsel and *in forma pauperis* in the district court, filed a notice of appeal. (ECF No. 15.) Thereafter, 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. 17.)

“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 “good faith” requirement if he or she seeks review of any issue that is “not frivolous.” Gardner v.

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

2 For the reasons outlined in the court's June 4, 2015 order dismissing the action, the court  
3 finds that the instant appeal is frivolous.<sup>1</sup> The court thus certifies that plaintiff's appeal is not  
4 taken in good faith, and concludes that plaintiff's *in forma pauperis* status should not continue for  
5 purposes of the appeal.


6 Accordingly, IT IS HEREBY ORDERED that:

7 1. Plaintiff's *in forma pauperis* status is REVOKED.

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

10 IT IS SO ORDERED.

11 Dated: June 24, 2015

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14 KENDALL J. NEWMAN  
15 UNITED STATES MAGISTRATE JUDGE  
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27 <sup>1</sup> The court's conclusion that plaintiff's appeal is frivolous is further reinforced by the fact that  
28 plaintiff spoke to a Clerk's Office staff member over the telephone regarding his case on June 9,  
2015, and admitted that, although he became incarcerated at some point, he had received the  
court's prior orders but just did not respond.