

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY DOWNS,
Plaintiff,
v.
LORI BALLS, etc., et al.,
Defendants.

No. 2:15-cv-0507 KJN P

ORDER

Plaintiff, a state prisoner proceeding in forma pauperis, sought relief pursuant to 42 U.S.C. § 1983. Plaintiff consented to proceed before the undersigned for all purposes. See 28 U.S.C. § 636(c). Judgment was entered in this action on November 4, 2015. On December 10, 2015, plaintiff filed a notice of appeal. On April 12, 2016, the Ninth Circuit Court of Appeals referred this matter to this court for the limited purpose of determining whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith.

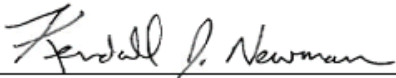
Pursuant to 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” The good faith standard is an objective one, and good faith is demonstrated when an individual “seeks appellate review of any issue not frivolous.” See Coppedge v. United States, 369 U.S. 438, 445 (1962). For purposes of 28 U.S.C. § 1915, an appeal is frivolous if it lacks any arguable basis in law or fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

After review of the record herein, the court finds that plaintiff's appeal is not taken in good faith. Accordingly, plaintiff's motion for leave to proceed in forma pauperis on appeal is denied.

In accordance with the above, IT IS HEREBY ORDERED that plaintiff's in forma pauperis status (ECF No. 7) is revoked.

Dated: April 28, 2016


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

/down0507.ifp.app.ngf