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28United States District Court  
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CPT MICHAEL C. GONCALVES,

Plaintiff,

No. C 11-02452 JSW

v.

**ORDER RE REFERRAL NOTICE**

UNITED STATES OF AMERICA, Honorable  
Robert Gates, LTG Jack Stultz, CDR, USARC,  
and Attorney General Eric Holder,

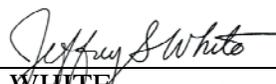
Defendants.

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On May 22, 2012, the United States Court of Appeals for the Ninth Circuit issued an order referring this matter to this Court for the limited purpose of determining whether Plaintiff's in forma pauperis status should continue for purposes of the appeal or whether the appeal is frivolous or taken in bad faith. *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."); *see also Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) ("If at least one issue or claim is found to be non-frivolous, leave to proceed in forma pauperis on appeal must be granted for the case as a whole."). Although the Court concluded that all of Plaintiff's claims were barred under the *Feres* doctrine, the Court cannot conclude that Plaintiff has taken the appeal in bad faith or that the appeal is frivolous. Accordingly, the Court shall not revoke Plaintiff's in forma pauperis status.

**IT IS SO ORDERED.**

Dated: May 24, 2012

  
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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

GONCALVES et al,  
Plaintiff,

Case Number: CV11-02452 JSW

**CERTIFICATE OF SERVICE**

v.

UNITED STATES OF AMERICA et al,  
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 24, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Michael C. Goncalves  
8444 Alberton Place  
Elk Grove, CA 95624

Dated: May 24, 2012



Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk