

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

LARRY HISTON, ) No. C 11-5210 JSW (PR)  
Plaintiff, )  
vs. )  
KELLY MITCHELL, )  
Defendant. )  
\_\_\_\_\_  
**ORDER REVOKING IN  
FORMA PAUPERIS STATUS**

Plaintiff, a California prisoner, has filed this pro se civil rights complaint under 42 U.S.C. § 1983. Defendants' motion to dismiss was granted because the complaint failed to state a cognizable claim for relief. Plaintiff has appealed. The Court of Appeals has referred the case to this Court for a determination of whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. *See* 28 U.S.C. § 1915(a)(3); *see also* *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002). The Court finds that the appeal is frivolous and consequently determines that in forma pauperis status should be revoked for purposes of the appeal. The Clerk shall send a copy of this order to the Court of Appeals.

IT IS SO ORDERED.

DATED: July 9, 2012

*Jeffrey S. White*  
JEFFREY S. WHITE  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

LARRY HISTON,

Case Number: CV11-05210 JSW

Plaintiff,

## **CERTIFICATE OF SERVICE**

V.

KELLY MITCHELL 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 July 9, 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.

Larry Histon J-79124  
1N/89L  
San Quentin State Prison  
San Quentin, CA 94974

Dated: July 9, 2012

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

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