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4 IN THE UNITED STATES DISTRICT COURT5
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA

7 LARRY HISTON,

8 Plaintiff,

9 vs.

10 KELLY MITCHELL,

11 Defendant.
12


No. C 11-5210 JSW (PR)

**ORDER REVOKING IN
FORMA PAUPERIS STATUS**

13 Plaintiff, a California prisoner, has filed this pro se civil rights complaint under
14 42 U.S.C. § 1983. Defendants' motion to dismiss was granted because the complaint
15 failed to state a cognizable claim for relief. Plaintiff has appealed. The Court of
16 Appeals has referred the case to this Court for a determination of whether in forma
17 pauperis status should continue for this appeal or whether the appeal is frivolous or
18 taken in bad faith. *See* 28 U.S.C. § 1915(a)(3); *see also Hooker v. American Airlines*,
19 302 F.3d 1091, 1092 (9th Cir. 2002). The Court finds that the appeal is frivolous and
20 consequently determines that in forma pauperis status should be revoked for purposes
21 of the appeal. The Clerk shall send a copy of this order to the Court of Appeals.

22 IT IS SO ORDERED.

23 DATED: July 9, 2012

24 
25 _____
26 JEFFREY S. WHITE
27 United States District Judge
28

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
4

5 LARRY HISTON,

6 Plaintiff,

7 v.

8 KELLY MITCHELL et al,

9 Defendant.
10 _____/

Case Number: CV11-05210 JSW


CERTIFICATE OF SERVICE

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

13 That on July 9, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said
14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
15 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
16 receptacle located in the Clerk's office.

16 Larry Histon J-79124
17 1N/89L
18 San Quentin State Prison
19 San Quentin, CA 94974

20 Dated: July 9, 2012


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