

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  
28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TYRONE HURT,

No. C-12-4187 EMC

Plaintiff,

v.

**ORDER REVOKING *IN FORMA*  
*PAUPERIS* STATUS**ALL SWEEPSTAKES CONTESTS, *et al.*,Defendant.  

---

On August 9, 2012, Plaintiff Tyrone Hurt filed a complaint against “All Sweepstakes Contests, et al., and its affiliates.” Plaintiff alleges that Defendants run “erroneous” sweepstakes contests that target African American communities and that violate the Eighth Amendment to the Constitution. On October 18, 2012, this Court dismissed Plaintiff’s complaint with prejudice, finding that “profound factual and legal deficiencies” made it unlikely that Plaintiff could allege any set of facts that would entitle him to relief. Plaintiff has now filed a notice of appeal.

The Ninth Circuit has made a referral to this Court for the limited purpose of determining whether *in forma pauperis* status should continue for the appeal. Title 28 U.S.C. § 1915(a)(3) provides that “[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.” 28 U.S.C. § 1915(a)(3). Courts have generally construed this to mean that an appeal must not be frivolous. *See, e.g., Coppedge v. United States*, 369 U.S. 438, 445 (1962) (holding “‘good faith’ . . . must be judged by an objective standard”; also noting “good faith” is demonstrated when appellant seeks review “of any issue not frivolous”); *Ellis v. United States*, 356 U.S. 674, 674 (1958) (stating that, “[i]n the absence of some evident improper motive, the

1 applicant's good faith is established by the presentation of any issue that is not plainly frivolous");  
2 *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (stating that, "[i]f at least one  
3 issue or claim is found to be non-frivolous, leave to proceed in forma pauperis on appeal must be  
4 granted for the case as a whole").

5 Plaintiff's notice of appeal offers no additional facts beyond those offered in his complaint,  
6 and offers no legal argument as to how the vague and conclusory allegations of the complaint state a  
7 plausible claim under the Eighth Amendment or any other law. Accordingly, this Court concludes  
8 that there are no valid grounds on which to base an appeal. This Court thus certifies that Plaintiff's  
9 appeal has not been taken in good faith and revokes his *in forma pauperis* status.

10 **The Clerk of the Court shall serve a copy of this order both on Plaintiff and on the**  
11 **Ninth Circuit.**

12  
13 IT IS SO ORDERED.

14  
15 Dated: November 15, 2012

16   
17 EDWARD M. CHEN  
18 United States District Judge  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

4 TYRONE HURT,

5 Plaintiff,

6 v.

7 ALL SWEEPSTAKES CONTESTS et al,

8 Defendant.

Case Number: CV12-04187 EMC

**CERTIFICATE OF SERVICE**

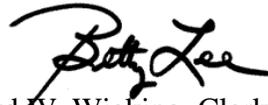
9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
10 Court, Northern District of California.

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

15 Tyrone Hurt  
16 422 Chesapeake Street, SE, #33  
17 Washington, DC 20032

18 US Ninth Circuit Court of Appeal  
19 95 -7th Street, Box 193939  
20 San Francisco CA 94103-3939

21 Dated: November 15, 2012



22 Richard W. Wieking, Clerk  
23 By: Betty Lee, Deputy Clerk  
24  
25  
26  
27  
28