

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KARLA GOTTSCHALK,
Plaintiff,
v.
CITY AND COUNTY OF SAN
FRANCISCO, *et al.*,
Defendants.

No. C-12-4531 EMC

**ORDER DENYING PLAINTIFF’S
MOTION TO PROCEED *IN FORMA
PAUPERIS* ON APPEAL**

(Docket No. 115, 117)

The Court dismissed this action with prejudice on August 12, 2013, finding that Plaintiff’s third amended complaint failed to comply with Rule 8(a)’s requirement to provide a short and plain statement of her claims, and that it was instead rambling, confusing, and often incoherent. Docket No. 111. These deficiencies remained despite the Court’s specific directions to Plaintiff in an earlier order dismissing the complaint without prejudice. Docket No. 44. The Court additionally found that Plaintiff failed to plead sufficient facts to support any of her claims, and that many of her claims were barred by sovereign immunity or premised on legal theories that were not viable in any case.

Plaintiff has now filed a notice of appeal, and a motion for leave to pursue this appeal *in forma pauperis*.¹ Docket Nos. 113, 115, 117.

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¹ For reasons that are not clear, Plaintiff has not previously filed a request to proceed *in forma pauperis* in this matter.

1 Under Federal Rule of Appellate Procedure 24(a)(1), “a party to a district-court action who
2 desires to appeal in forma pauperis must file a motion in the district court.” Fed. R.App. P. 24(a)(1).
3 “If the district court denies the motion, it must state its reasons in writing.” Fed. R.App. P. 24(a)(2).
4 Under 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken in forma pauperis if the trial court
5 certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). The Ninth Circuit has
6 construed “not taken in good faith” to mean frivolous. *See Hooker v. American Airlines*, 302 F.3d
7 1091, 1092 (9th Cir.2002) (stating that “[i]f at least one issue or claim is found to be non-frivolous,
8 leave to proceed in forma pauperis on appeal must be granted for the case as a whole”).

9 Here, the Court finds Plaintiff’s appeal frivolous. As noted in the Court’s previous orders,
10 Plaintiff’s complaint fails to set forth intelligible facts or articulate a viable legal theory showing that
11 she is entitled to relief. Despite opportunities to amend her complaint to remedy these problems,
12 Plaintiff failed to do so. Given the profound legal and factual deficiencies in the complaint, the
13 Court finds Plaintiff’s appeal to be frivolous.

14 Pursuant to Federal Rule of Appellate Procedure 24(a)(4), the Clerk of the Court is instructed
15 to immediately notify the Ninth Circuit that this Court has denied Plaintiff’s motion to proceed on
16 appeal *in forma pauperis* and certified in writing that the appeal is not taken in good faith. *See* Fed.
17 R.App. P. 24(a)(4).

18 This order disposes of Docket Nos. 115 and 117.

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20 IT IS SO ORDERED.

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22 Dated: August 23, 2013

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24 EDWARD M. CHEN
25 United States District Judge
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