

United States District Court
For the Northern District of California

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

RAIMI SHOAGA,

No. 3:14-cv-4000-CRB

Plaintiff,

**ORDER REVOKING IN FORMA
PAUPERIS STATUS ON APPEAL**

v.

WELLS FARGO BANK, ET AL.,

Defendants.

On May 20, 2015, the Ninth Circuit Court of Appeals referred this matter to the district court for the purpose of determining whether in forma pauperis status should continue for the appeal or whether the appeal is frivolous or taken in bad faith. See Referral Notice (dkt. 21).

This Court dismissed Shoaga’s initial complaint on September 19, 2014, for failure to state a claim on which relief may be granted, and allowed leave to amend. Order re IFP and Dismissal (dkt. 4). Shoaga filed his First Amended Complaint (“FAC”) on October 24, 2014. FAC (dkt. 6). The Court then dismissed Shoaga’s FAC on December 16, 2014, for failure to state a claim and again granted leave to amend. Order re IFP and Dismissal of FAC (dkt. 9). On January 15, 2015, Shoaga filed a Second Amended Complaint (“SAC”). SAC (dkt. 13). The Court dismissed the SAC with prejudice in a detailed order that determined Shoaga failed to state a claim and that further amendment would be futile. Order

1 re IFP and Dismissal of FAC (dkt. 16).

2 Shoaga now appeals from that order, apparently without stating any grounds or
3 reasons on which his appeal is based. See Notice of Appeal (dkt. 1, Ninth Circuit 15-16007).
4 But in any event, Shoaga’s claims are frivolous and an appeal from this Court’s order of
5 dismissal lacks any basis in fact or law. The Court thus finds that Shoaga’s appeal is
6 frivolous and hereby revokes in forma pauperis status. See 28 U.S.C. § 1915(a)(3); see also
7 Hooker v. American Airlines, 302 F.3d 1091 1092 (9th Cir. 2002). Even if a party provides
8 proof of indigence, “an appeal may not be taken in forma pauperis if the trial court certifies
9 in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). An appeal is in “good
10 faith” where it seeks review of any issue that is “nonfrivolous.” Hooker, 302 F.3d at 1092.
11 An issue is frivolous if it has “no arguable basis in fact or law.” See O’Loughlin v. Doe, 920
12 F.2d 614, 617 (9th Cir. 1990) (quoting Franklin v. Murphy, 745 F.2d 1221, 1228 (9th
13 Cir.1984)).

14 The gravamen of Shoaga’s SAC is that “taxation in the United States is based on
15 voluntary compliance” and, as such, the IRS and other parties should not be acting to collect
16 taxes he has elected not to pay. See, e.g., SAC at 10. All of Shoaga’s claims stem from his
17 conclusion that “he has the freedom of choice to pay or not to pay income tax without any
18 legal obligation towards defendant,” id. at 17–18, a worn-out claim of tax denial that has
19 long been held to be “completely lacking in legal merit and patently frivolous.” See
20 Lonsdale v. United States, 919 F.2d 1440, 1448 (10th Cir.1990); Wilcox v. Commissioner of
21 the Internal Revenue, 848 F.2d 1007, 1008–09 (9th Cir.1988) (awarding sanctions against a
22 party for making this frivolous argument on appeal). “[P]aying taxes is not voluntary.”
23 Wilcox, 848 F.2d at 1008 (citing Carter v. Commissioner, 784 F.2d 1006, 1009 (9th
24 Cir.1986)). Finally, to the extent that Shoaga suggests some vague claim that the interest rate
25 on his federally guaranteed student loan is unenforceable, Shoaga neither alleges any facts or
26 law that could entitle him to relief, nor sues defendants that are amendable to these claims.
27 See, e.g., Dep’t of the Army v. Blue Fox, Inc., 525 U.S. 255, 260 (1999); Yakama Indian
28 Nation v. State of Wash. Dep’t of Revenue, 176 F.3d 1241, 1245 (9th Cir.1999), cert. denied,

1 528 U.S. 1116 (2000).

2 Accordingly, in response to the Ninth Circuit's Referral Notice, the Court hereby
3 REVOKES Shoaga's in forma pauperis status on appeal. See 28 U.S.C. § 1915(a)(3).

4 **IT IS SO ORDERED.**

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6 Dated: June 4, 2015

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CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE