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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

RICARDO JOSE CALDERON LOPEZ,
Plaintiff,
v.
TIGRAN GUMUSHYAN, et al.,
Defendants.

Case No. [16-cv-07236-LB](#)

ORDER

Re: ECF Nos. 117 & 120

Ricardo Calderon Lopez filed an application to proceed in forma pauperis.¹ The court denied it and asked Mr. Lopez to clarify what he sought: IFP status in this court or in aid of his appeal before the Ninth Circuit.² Mr. Lopez responded to the court's order.³ As best the court can tell, he intended the IFP application to support his appeal of the undersigned's order denying his withdrawal of consent to magistrate-judge jurisdiction.⁴

The court construes Mr. Lopez's application as a motion for leave to proceed IFP under Federal Rule of Appellate Procedure 24(a). Under that rule, "a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court." Fed. R. App. P.

¹ ECF No. 117.

² Order – ECF No. 119 at 2.

³ Response – ECF No. 120.

⁴ See *id.* at 1, 2.

1 24(a)(1). The party must attach an affidavit that: (A) shows in detail “the party’s inability to pay or
2 to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues
3 that the party intends to present on appeal.” *Id.* Alternatively, “[a] party who was permitted to
4 proceed in forma pauperis in the district-court action . . . may proceed on appeal in forma pauperis
5 without further authorization,” unless the district court “certifies that the appeal is not taken in
6 good faith.” *Id.* 24(a)(3); *see also* 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken in forma
7 pauperis if the trial court certifies that it is not taken in good faith.”). “An appeal is in ‘good faith’
8 where it seeks review of any issue that is ‘non-frivolous.’” *Morales v. Tingey*, No. C 05-3498 PJH
9 (PR), 2013 WL 685208, at *1 (N.D. Cal. Feb. 25, 2013) (citing *Hooker v. Am. Airlines*, 302 F.3d
10 1091, 1092 (9th Cir. 2002)). “An issue is ‘frivolous’ if it has ‘no arguable basis in fact or law.’”
11 *Id.* (citing *O’Laughlin v. Doe*, 920 F.2d 614, 617 (9th Cir. 1990)).

12 Here, Mr. Lopez is proceeding IFP in his district-court actions: the court granted IFP status in
13 the related, social-security case; and, although he paid the filing fee in this case, the original judge
14 “reviewed the financial affidavit submitted by [Mr. Lopez]” and ordered the Marshals to serve the
15 defendants.⁵ But the court denies Mr. Lopez’s request because the appeal he identifies in his
16 papers — regarding the court’s order denying his withdrawal of consent — is frivolous. As
17 explained in the court’s prior order, consent to magistrate jurisdiction may be withdrawn only for
18 good cause or under extraordinary circumstances.⁶ Mr. Lopez has not shown good cause or
19 extraordinary circumstances, only that he disagrees with the court’s orders. Absent an arguable
20 basis in fact or law for withdrawing his consent (or, for why the court’s order denying his
21 withdrawal was incorrect), his appeal of that order is frivolous.

22 The court therefore denies Mr. Lopez’s request.

23 **IT IS SO ORDERED.**

24 Dated: April 6, 2017



25 LAUREL BEELER
United States Magistrate Judge

26 _____
27 ⁵ *See* Minutes – ECF No. 58 at 2; Order Directing Service – ECF No. 59 (“Plaintiff filed a complaint *in*
forma pauperis under 28 U.S.C. § 1915.”).

28 ⁶ *See* Order – ECF No. 108 at 2–3.