

United States District Court  
Northern District of California

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4 JOSEPH MCINERNEY,  
5  
6 Plaintiff,  
7  
8 vs.  
9  
10 CITY OF SAN JOSE, et al.,  
11  
12 Defendants.

Case No.: 11-3018 CW

ORDER DENYING APPLICATION TO  
PROCEED IN FORMA PAUPERIS ON  
APPEAL

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12 On October 19, 2011, this Court granted Plaintiff Josph  
13 McInerney's application to proceed in forma pauperis and dismissed  
14 his complaint under 28 U.S.C. § 1915(a) because, even interpreted  
15 liberally, Plaintiff's allegations did not state a claim upon which  
16 relief could be granted. On November 23, 2011, the Court denied  
17 Plaintiff's motion to alter or amend the judgment. On December 23,  
18 2011, Plaintiff filed a notice of appeal and an application to  
19 proceed in forma pauperis on appeal. On January 4, 2012, the Ninth  
20 Circuit referred this matter to this Court for the limited purpose  
21 of determining whether in forma pauperis status should continue.

22 The Court finds that this appeal is frivolous and denies  
23 Plaintiff's application to proceed in forma pauperis on appeal.

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25 IT IS SO ORDERED.

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28 Claudia Wilken  
United States District Judge