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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

JESSE L. YOUNGBLOOD,

Plaintiff,

No. C 12-4423 PJH (PR)

vs.

Warden A. A. LAMARQUE; and 45  
Unknown Names of Gov. Officials,

**ORDER REVOKING  
PLAINTIFF'S IN FORMA  
PAUPERIS STATUS**

Defendants.

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This civil rights case filed pro se by a state prisoner was dismissed and closed on February 4, 2013. Plaintiff has filed an appeal with the Ninth Circuit and the case has been referred back to this court for the limited purpose of determining whether plaintiff's in forma pauperis status should continue or whether the appeal is frivolous or taken in bad faith. *Youngblood v. Warden*, No. 13-15312, Docket No. 2.


An indigent party who cannot afford the expense of pursuing an appeal may file a motion for leave to proceed in forma pauperis. Fed. R. App. P. 24(a); 28 U.S.C. § 1915(a)(1). Pursuant to Federal Rule of Appellate Procedure 24(a), "a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court." The party must attach an affidavit that (1) shows in detail "the party's inability to pay or give security for fees and costs," (2) "claims an entitlement to redress," and (3) "states the issues that the party intends to present on appeal." Fed. R. App. P. 24(a)(1). However, even if a party provides proof of indigence, "an 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). An appeal is in "good faith" where it seeks review of any issue that is "non-frivolous." *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002). An issue is "frivolous" if

1 it has “no arguable basis in fact or law.” See *O’Loughlin v. Doe*, 920 F.2d 614, 617 (9th Cir.  
2 1990).

3 After providing plaintiff an opportunity to amend his complaint, the court dismissed  
4 this case as plaintiff’s allegations were confusing, rambling and at times incomprehensible.  
5 He stated that from 2005 through 2010 unidentified correctional officers injured him which  
6 led to mental anguish, they stole his property and denied him access to the courts. Plaintiff  
7 did not provide details regarding these allegations or even the identities of most of the  
8 defendants. The court noted that the complaint was substantially similar to a prior  
9 complaint that plaintiff filed with this court that was also dismissed. See *Youngblood v. The*  
10 *People of the State of California*, C 11-4064 PJH (PR). Plaintiff appealed the prior case as  
11 well and it was also determined that his appeal was frivolous and not taken in good faith.  
12 As it is clear that this appeal is frivolous and taken in bad faith, plaintiff’s in forma pauperis  
13 status is **REVOKED**. The Clerk shall forward this Order to the Ninth Circuit in case No. 13-  
14 15312.

15 **IT IS SO ORDERED.**

16 Dated: February 25, 2013.

  
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PHYLLIS J. HAMILTON  
United States District Judge

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