

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

JESSE L. YOUNGBLOOD,

Plaintiff,

vs.

FEATHER FALLS CASINO, et. al.,

Defendants.

No. C 13-1282 PJH (PR)

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

This civil rights case filed pro se by a state prisoner was dismissed and closed on March 29, 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. Feather Falls Casino*, No. 13-15674, 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 Plaintiff alleged that he slipped and fell while at Feather Falls Casino in 2002, prior to
4 his incarceration. Plaintiff alleged that he filed several lawsuits in state and federal court
5 that were dismissed. Plaintiff stated that while incarcerated at Salinas Valley State Prison
6 from 2005 to 2010 his legal work was being sabotaged by unnamed defendants which
7 prevented him from continuing the litigation. Plaintiff wants all of his cases reopened and
8 money damages.

9 Feather Falls Casino is located in Oroville, CA which lies in the Eastern District of
10 California. Court records and plaintiff’s complaint indicate that he filed a case in the
11 Eastern District regarding this incident, *Youngblood v. Feather Falls Casino*, 03-1627 WBS
12 JFM. That case was dismissed with prejudice on June 1, 2004, for lack of subject matter
13 jurisdiction. Plaintiff was also informed in this case that he failed to establish a
14 constitutional right of access to the courts claim, as he must have been pursuing a
15 non-frivolous claim concerning his conviction or conditions of confinement. *Lewis v. Casey*,
16 518 U.S. 343, 354-55 (1996). A slip and fall at a casino prior to incarceration is insufficient.

17 As it is clear that this appeal is frivolous and taken in bad faith, plaintiff’s in forma
18 pauperis status is **REVOKED**. The Clerk shall forward this Order to the Ninth Circuit in
19 case No. 13-15674.

20 **IT IS SO ORDERED.**

21 Dated: April 16, 2013.



PHYLLIS J. HAMILTON
United States District Judge

22
23 G:\PRO-SE\PJH\CR.13\Youngblood1282.ifp-rvk.wpd

24

25

26

27

28