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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ADEMOLA MICHAEL ADESANYA,
Plaintiff,
v.
UNITED STATES, et al.,
Defendants.

Case No. [15-cv-01379-KAW](#)

**ORDER REVOKING IN FORMA
PAUPERIS STATUS**

Re: Dkt. No. 39

On March 25, 2015, *pro se* plaintiff Ademola Adesanya, a Nigerian citizen and resident, commenced this action against the United States, alleging that the provision in 8 U.S.C. § 1229a(b)(7) requiring that he wait ten years before obtaining relief from his removal from the United States violated his constitutional rights.

On May 21, 2015, the Court dismissed Plaintiff’s initial complaint with leave to amend on the grounds that Plaintiff lacked standing to litigate his case. (Dkt. No. 20.) On June 16, 2015, Plaintiff filed a first amended complaint, in which he added a “TORTS” cause of action against both the United States and Kern County.

On October 14, 2015, the Court dismissed Plaintiff’s first amended complaint without leave to amend and denied his motion for leave to file a second amended complaint. (Dkt. No. 35 at 5.)

On October 15, 2015, Plaintiff appealed the dismissal order and denial of the motion for leave to file a second amended complaint to the Ninth Circuit Court of Appeals. On October 19, 2015, the Ninth Circuit referred the case back to this Court for the limited purpose of determining whether Plaintiff’s in forma pauperis status should continue for this appeal, or whether the appeal is frivolous or taken in bad faith. *See* Referral Notice, *Adesanya v. United States*, No. 12-17064

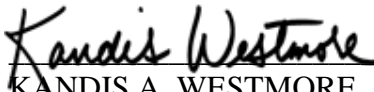
1 (9th Cir. Oct. 19, 2015), ECF No. 2 (citing 28 U.S.C. § 1915(a)(3); *Hooker v. American Airlines*,
2 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of forma pauperis status is appropriate where
3 district court finds the appeal to be frivolous)).

4 The Court dismissed Plaintiff's first amended complaint without leave to amend on the
5 grounds that Plaintiff lacked standing to challenge the ten year ban because more than ten years
6 had passed since Plaintiff's deportation, such that he was no longer aggrieved by the statute. (Dkt.
7 No. 35 at 5.) The Court also dismissed Plaintiff's generalized torts claims as time-barred. *Id.* at 5-
8 6. Furthermore, the Court noted that this action appeared to be duplicative of Plaintiff's pending
9 appeal before the Ninth Circuit. *Id.* at 6; *See* Unopposed Motion to take Judicial Notice of New
10 appeal and related case, *Adesanya v. Lynch*, No. 14-71935 (9th Cir. May 27, 2015), ECF No. 25.
11 Since any amendment would be futile, the Court dismissed the operative complaint without leave
12 to amend, denied the motion for leave to file a second amended complaint, and entered judgment.

13 Plaintiff has repeatedly shown that his complaint is fatally defective, even after he was
14 permitted to amend his complaint. (Dkt. No. 20.) The court now certifies that the appeal is
15 frivolous and REVOKES Plaintiff's in forma pauperis status on appeal in this action.

16 IT IS SO ORDERED.

17 Dated: November 6, 2015

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KANDIS A. WESTMORE
19 United States Magistrate Judge
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