UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

YOHONIA MARTIN,

Plaintiff,

v.

ROBERT MILLER,

Defendant.

Case No. 15-cv-02136-DMR

ORDER DENYING IN FORMA PAUPERIS STATUS ON APPEAL

On July 2, 2015, the court granted pro se Plaintiff Yohonia Martin's application for leave to proceed in forma pauperis and dismissed the complaint with leave to amend. [Docket No. 5.] Plaintiff timely filed a document which the court construed to be Plaintiff's amended complaint. [Docket No. 6.] Upon review of Plaintiff's amended complaint, the court found that Plaintiff had not remedied the deficiencies identified in the court's dismissal order. As Plaintiff had been given an opportunity to address the deficiencies in her original complaint, the court dismissed the action on August 3, 2015. [Docket No. 8.] Plaintiff has appealed from that order, and the Ninth Circuit has referred the matter to this court for the limited purpose of determining whether Plaintiff's in forma pauperis status should continue for the appeal. [Docket No. 12.]

"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). This section is generally construed to mean that an appeal must not be frivolous. See, e.g., Coppedge v. United States, 369 U.S. 438, 445 (1962) (holding that the term "'good faith' . . . must be judged by an objective standard" and is demonstrated when appellant seeks review "of any issue not frivolous"); Ellis v. United States, 356 U.S. 674, 674 (1958) (noting that "[i]n the absence of some evident improper motive, the applicant's good faith is established by the presentation of any issue that is not plainly frivolous"); Hooker v. American Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002) (stating that "[i]f at least one

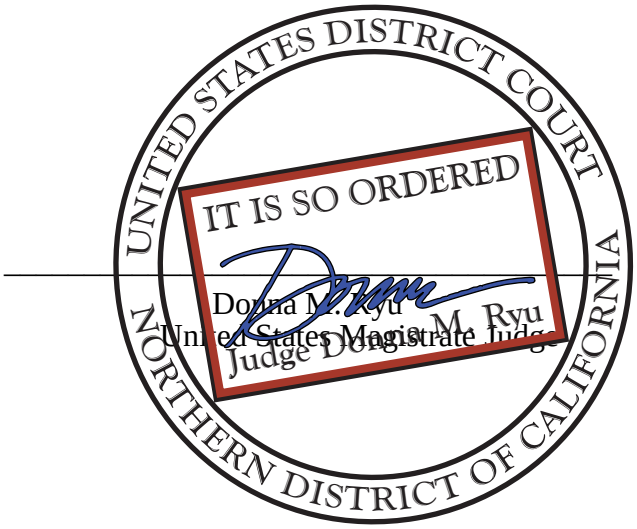
issue or claim is found to be non-frivolous, leave to proceed in forma pauperis on appeal must be granted for the case as a whole").

Having reviewed this matter, the court concludes there are no valid grounds on which to base an appeal. Accordingly, the court certifies that Plaintiff's appeal is not taken in good faith pursuant to 28 U.S.C. § 1915(a)(3) and revokes her in forma pauperis status.

The Clerk of the Court is directed to serve a copy of this order on Plaintiff and the Ninth Circuit.

IT IS SO ORDERED.

Dated: August 21, 2015



Donna M. Ryu
United States Magistrate Judge

United States District Court
Northern District of California