

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

YOHONIA MARTIN,
Plaintiff,

v.

ELENA JAMES,
Defendant.

Case No. 15-cv-2417-PJH

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

The above-entitled action was filed by pro se plaintiff Yohonia Martin on June 1, 2015, and was dismissed and closed on June 10, 2015. 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.

An indigent party who cannot afford the expense of pursuing an appeal may file a motion for leave to proceed in forma pauperis. See 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

1 U.S.C. § 1915(a)(3). An appeal is in “good faith” where it seeks review of any issue that
2 is “non-frivolous.” Hooker v. American Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002). An
3 issue is “frivolous” if it has “no arguable basis in fact or law.” See O’Loughlin v. Doe, 920
4 F.2d 614, 617 (9th Cir. 1990).

5 In this case, plaintiff asserted claims against Magistrate Judge Maria-Elena James
6 in connection with Judge James’ rulings in another case plaintiff had filed in this court.
7 The court dismissed plaintiff’s complaint with prejudice, based on judicial immunity.
8 Plaintiff has appealed from that decision.

9 As it is clear that this appeal is frivolous and taken in bad faith, plaintiff’s in forma
10 pauperis status is REVOKED. The Clerk shall forward this Order to the Ninth Circuit in
11 case No. 15-16257.

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13 **IT IS SO ORDERED.**

14 Dated: June 24, 2015



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17 PHYLLIS J. HAMILTON
18 United States District Judge
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