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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Thomas Gribovski,

NO. C 11-00070 JW

Plaintiff,

**ORDER CERTIFYING THAT
PLAINTIFF'S APPEAL IS NOT TAKEN
IN GOOD FAITH**

v.

The State of California, et al.,

Defendants.

Presently before the Court is the Ninth Circuit's Referral Notice. (See Docket Item No. 22.) In its Notice, the Ninth Circuit requests a determination as to whether Petitioner's *in forma pauperis* status should continue for the pendency of his appeal. (Id.)

Title 28 U.S.C. § 1915(a)(3) provides, in pertinent part:

An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.

On March 16, 2011, the Court granted Plaintiff's Application to proceed *in forma pauperis* and dismissed Plaintiff's Complaint without prejudice for violation of his Fourteenth Amendment due process rights pursuant to 42 U.S.C. § 1983 by the California state courts under the Rooker-Feldman doctrine. (hereafter, "March 16 Order," Docket Item No. 13.)

On April 13 and April 19, 2011, Plaintiff filed two Motions for Reconsideration of the Court's March 16 Order and a Notice of Appeal to the Ninth Circuit. (See Docket Item Nos. 17, 18, 19.) On April 20, 2011, the Court, in light of Plaintiff's *pro se* status, liberally construed the Motions as Motions for Leave to File a Motion for Reconsideration and denied the Motions on the

1 grounds that Plaintiff failed to assert any basis as to why Rooker-Feldman would be inapplicable.
2 (See Docket Item No. 21.)

3 Upon review, the Court does not find that Plaintiff's appeal was undertaken in good faith.
4 Specifically, the Court found, first in its March 16 Order and again on reconsideration, that
5 Plaintiff's suit is clearly barred by the Rooker-Feldman doctrine and Plaintiff fails to put forth any
6 grounds to the contrary. Thus, Plaintiff's appeal is frivolous.

7 Accordingly, the Court certifies that Plaintiff's appeal is not taken in good faith and, thus,
8 Plaintiff's *in forma pauperis* status should not continue for the pendency of his appeal.

9
10 Dated: April 28, 2011



JAMES WARE
United States District Chief Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Thomas Gribovski
3 c/o Mr. Joerg Kreisel
4 Melanieweg 25
5 Aachen, Germany

6 **Dated: April 28, 2011**

Richard W. Wieking, Clerk

7 **By: /s/ JW Chambers**
8 **Elizabeth Garcia**
9 **Courtroom Deputy**

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