

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
SAN JOSE DIVISION**

GREGORY EDWIN DUNN,
Plaintiff,
v.
SANTA CRUZ COUNTY,
Defendant.

Case No. 21-cv-02091-BLF

**ORDER REVOKING IN FORMA
PAUPERIS STATUS**

[Re: ECF 18]

Plaintiff Gregory Edwin Dunn was granted leave to proceed in this case in forma pauperis. *See* ECF 5. Plaintiff’s complaint and first amended complaint were screened and dismissed pursuant to 28 U.S.C. § 1915, and after the second screening the action was dismissed with prejudice. *See* ECF 13, 14. Plaintiff filed a notice of appeal on June 1, 2021. *See* ECF 16. On June 2, 2021 the United States Court of Appeals for the Ninth Circuit referred the case back to this Court “for the limited purpose of determining whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith.” ECF 18.

“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 taken in good faith if it presents at least one issue or claim that is non-frivolous. *See Hooker v. Amer. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (“If 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.”). In dismissing Plaintiff’s first amended complaint, this Court determined that Plaintiff had alleged a number of disjointed facts that failed to state a viable claim against Defendant, and that granting further leave to amend would be futile. Because Plaintiff has been unable to present any issue or claim with potential

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

merit, this Court concludes that Plaintiff's appeal is frivolous and thus not taken in good faith under the applicable legal standard.

Accordingly, Plaintiff's in forma pauperis status is hereby REVOKED pursuant to 28 U.S.C. § 1915(a)(3). The Clerk shall notify Plaintiff and the United States Court of Appeals for the Ninth Circuit of this ruling as soon as is practicable. This ruling is without prejudice to the filing of an application in the Court of Appeals for leave to proceed in forma pauperis.

IT IS SO ORDERED.

Dated: June 3 2021



BETH LABSON FREEMAN
United States District Judge