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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RICHARD EARL GEORGE,

Plaintiff,

vs.

D. URIBE, et al.,

Defendants.

CASE NO. 11-CV-70 JLS (RBB)

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

(ECF No. 60)

Plaintiff Richard Earl Jones (“Plaintiff”), a California state prisoner proceeding *pro se* and *in forma pauperis*, filed his Second Amended Complaint (“SAC”) on May 31, 2012, alleging various violations of his constitutional rights. On November 1, 2012, the Court issued an Order to Show Cause notifying Plaintiff that his SAC would be dismissed for failure to serve the Defendants as required by the Federal Rules of Civil Procedure unless Plaintiff filed proof of service upon Defendants by December 20, 2012. After Plaintiff failed to do so, the Court issued an Order dismissing the action without prejudice on January 7, 2013. Plaintiff filed a notice of appeal on February 14, 2013, (ECF No. 56), and the Ninth Circuit requested the Court determine “whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith.” (ECF No. 60.)

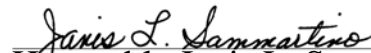
1 Under 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken in forma pauperis
2 if the trial court certifies in writing that it is not taken in good faith.” *See Hooker v.*
3 *American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002). The good faith standard is an
4 objective one, and good faith is demonstrated when an individual “seeks appellate
5 review of any issue not frivolous.” *See Coppedge v. United States*, 369 U.S. 438, 445
6 (1962). For purposes of 28 U.S.C. § 1915, an appeal is frivolous if it lacks any arguable
7 basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

8 As noted in the Court’s January 7, 2013 Order, Plaintiff’s alleged deprivation of
9 “access to the law library” does not adequately explain his lack of proper service upon
10 Defendants since May 31, 2012.¹ Further, although Plaintiff alleges that a signed
11 Inmate Request 22 Form as proof of service, no such form is attached to Plaintiff’s
12 filings, and Plaintiff otherwise fails to address the lack of service. Accordingly,
13 Plaintiff’s appeal is frivolous and his in forma pauperis status should be revoked.

14 For the reasons discussed above, the Court certifies that certifies that Plaintiff’s
15 appeal is frivolous and not taken in good faith. Accordingly, it is **HEREBY**
16 **ORDERED** that: (1) Plaintiff’s in forma pauperis status is **REVOKED** for purposes
17 of his appeal; and (2) the Clerk of Court is **DIRECTED** to notify the Ninth Circuit
18 Court of Appeals that the Court certifies, pursuant to Rule 24(a)(3)(A) of the Federal
19 Rules of Appellate Procedure, that Plaintiff’s appeal is frivolous and not taken in good
20 faith.

21 **IT IS SO ORDERED.**

22 DATED: March 8, 2013

23 
24 Honorable Janis L. Sammartino
25 United States District Judge

26
27 ¹The Court notes that Plaintiff, despite his alleged lack of resources to properly
28 serve Defendants, has somehow managed to mail several supplemental filings and
exhibits to the Court. (*See* ECF Nos. 52, 55, 61.)