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

JAMES LEROYE JEFFERSON,
Plaintiff,
vs.
HOLLINGSWORTH, et al.,
Defendants.

Case No. 17cv1099-MMA (BGS)

**ORDER RESPONDING TO
REFERRAL NOTICE**

[Doc. No. 45]

Plaintiff James Leroye Jefferson, a California state prisoner proceeding *pro se* and *in forma pauperis*, filed an amended complaint against the California Prison Industry Authority. *See* Doc. No. 39. The Court screened and dismissed Plaintiff’s amended complaint pursuant to 28 U.S.C. § 1915(e)(2)(b)(iii) and § 1915A(b)(2). *See* Doc. No. 40. Plaintiff filed a timely Notice of Appeal. *See* Doc. No. 42. The United States Court of Appeals for the Ninth Circuit has referred the matter 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.” *See* Doc. No. 58.

Rule 24(a)(3) of the Federal Rules of Appellate Procedure provides that a party granted leave to proceed in forma pauperis (“IFP”) in district court may continue in that status on appeal unless the district court certifies that the appeal is not taken in good faith,

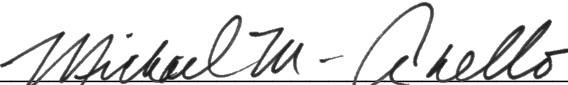
1 which in this context means that it is frivolous. *See Ellis v. United States*, 356 U.S. 674,
2 674-75 (1958). Title 28 of the United States Code, section 1915(a)(3), similarly provides
3 that an appeal may not be taken IFP if the trial court certifies it is not taken in good faith.
4 For purposes of section 1915, an appeal is “frivolous” if it lacks any arguable basis in law
5 or fact. *See Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Franklin v. Murphy*, 745 F.2d
6 1221, 1225 (9th Cir. 1984).

7 After review of the record herein, the Court concludes that Plaintiff’s appeal lacks
8 any arguable basis in law or fact, and thus is considered as not being taken “in good
9 faith” pursuant to 28 U.S.C. § 1915(a)(3). Accordingly, the Court hereby **REVOKES**
10 Plaintiff’s IFP status. *See Gardner v. Pogue*, 558 F.2d 548, 550 (9th Cir. 1977) (indigent
11 appellant is permitted to proceed in forma pauperis on appeal only if appeal would not be
12 frivolous).

13 The Clerk of the Court is directed to notify the Ninth Circuit Court of Appeals of
14 this Order. *See Fed. R. App. P. 24(a)(4)*.

15 **IT IS SO ORDERED.**

16 DATE: March 7, 2019

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19 HON. MICHAEL M. ANELLO
20 United States District Judge
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