

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
SOUTHERN DISTRICT OF CALIFORNIA

AKHTAR QASSIMYAR, an individual,
Plaintiff,
v.
FEDERAL BUREAU OF
INVESTIGATION (FBI); STACEY
MOY; DOES 1 THROUGH 500,
Defendant.

Case No.: 3:24-cv-02109-RBM-DDL

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

[Doc. 8]

Presently before the Court is the United States Court of Appeals for the Ninth Circuit Referral Notice. (Doc. 8.) The Ninth Circuit Court of Appeals has referred the matter to this Court to determine whether Plaintiff-Appellant Akhtar Qassimyar (“Plaintiff”) should be allowed to proceed *in forma pauperis* (“IFP”) on appeal, or whether the appeal is frivolous or taken in bad faith. (*Id.* at 1.)

On November 27, 2024, this Court granted Plaintiff leave to proceed IFP but dismissed his Complaint (Doc. 1) under 28 U.S.C. § 1915(a) as frivolous and for failure to

1 state a claim without leave to amend. (Doc. 3.) Plaintiff appealed the Court’s dismissal
2 order to the Ninth Circuit Court of Appeals. (Doc. 5.) Because Plaintiff lacks any good-
3 faith basis for his appeal of the dismissal order, he cannot maintain his IFP status, and it is
4 therefore **REVOKED**.

5 Federal Rule of Appellate Procedure 24(a)(3) provides that:

6 [a] party who was permitted to proceed in forma pauperis in the district-court
7 action, . . . may proceed on appeal in forma pauperis without further
8 authorization, unless: (A) the district court--before or after the notice of appeal
9 is filed--certifies that the appeal is not taken in good faith or finds that the
10 party is not otherwise entitled to proceed in forma pauperis and states in
11 writing its reasons for the certification or finding; or (B) a statute provides
12 otherwise.

13 Fed. R. App. P. 24(a)(3); *see* 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken in forma
14 pauperis if the trial court certifies in writing that it is not taken in good faith”). An appeal
15 is taken in “good faith” where it seeks review of any issue that is “non-frivolous.” *See*
16 *Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002); *Ellis v. United States*, 356
17 U.S. 674 (1958) (“In the absence of some evident improper motive, the applicant’s good
18 faith is established by the presentation of any issue that is not plainly frivolous.”). A
19 complaint is frivolous if it has “no arguable basis in fact or law.” *O’Loughlin v. Doe*, 920
20 F.2d 614, 617 (9th Cir. 1990). Parties must present at least one non-frivolous issue or claim
21 to justify that critical “good faith” finding. *See id.*

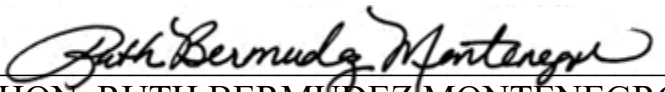
22 Based on its ruling dismissing the Complaint for failing to state a claim, the Court
23 concludes that the appeal lacks any arguable basis in law or fact and is frivolous. The
24 appeal is therefore not taken in “good faith.” Courts “often revoke IFP status when a
25 plaintiff’s claim faces an obstacle that simply cannot be overcome.” *Allen v. Diaz*, No. 20-
26 CV-1389 JLS (MDD), 2023 WL 6593834, at *3 (S.D. Cal. Sept. 5, 2023). As this Court
27 previously explained, the Complaint is replete with fanciful ideations that are fantastical,
28 delusional, irrational, and incredible concerning individuals and entities attempting to
assassinate Plaintiff and torturing him by depriving him of sleep through radar and remote

1 devices. (See Doc. 3 at 6–8.) “No matter how sincerely believed by Plaintiff, these
2 allegations are simply too fantastic to warrant the expenditure of further judicial and private
3 resources.” *Meyer v. World Bank*, No. 3:19-cv-00017-GPC (JLB), 2019 WL 2009873, at
4 *3 (S.D. Cal. May 7, 2019) (citation omitted); see also *Adkins v. E.I. DuPont de Nemours*
5 & Co., 335 U.S. 331, 337 (1948) (Courts have the “power to protect the public from having
6 to pay heavy costs incident to the inclusion of ‘wholly unnecessary’ matters in an in forma
7 pauperis appeal.”).

8 Accordingly, it is **HEREBY ORDERED** that: (1) Plaintiff’s in forma pauperis
9 status is **REVOKED** for purposes of the appeal; and (2) the Clerk of Court is **DIRECTED**
10 to notify the Ninth Circuit Court of Appeals that the Court certifies that Plaintiff’s appeal
11 is not taken in good faith.

12 **IT IS SO ORDERED.**

13 DATE: January 7, 2025

14 
15 HON. RUTH BERMUDEZ MONTENEGRO
16 UNITED STATES DISTRICT JUDGE
17
18
19
20
21
22
23
24
25
26
27
28