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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

CURTIS L. DOWNING,

Plaintiff(s),

v.

JOHNNIE GRAVES, et al.,

Defendant(s).

Case No. 2:12-CV-332 JCM (CWH)

ORDER

Presently before the court is the Ninth Circuit’s referral “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 No. 90); see also 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.”).

“An appeal is frivolous ‘when the result is obvious or the appellant’s arguments are wholly without merit.’” *Blixseth v. Yellowstone Mountain Club, LLC*, 796 F.3d 1004, 1007 (9th Cir. 2015) (quoting *Glanzman v. Uniroyal, Inc.*, 892 F.2d 58, 61 (9th Cir. 1989)), cert. denied sub nom. *Flynn v. Yellowstone Mountain Club, LLC*, 136 S. Ct. 1455 (2016).

Here, plaintiff appeals this court’s April 28, 2017, order denying plaintiff’s motion for relief from judgment. (ECF No. 86). That order rejected plaintiff’s motion because the Ninth Circuit had already affirmed this court’s adjudication of the case. See (ECF Nos. 67, 74, 86). Moreover, this court declined to consider plaintiff’s criticism of the Ninth Circuit’s adjudication of his appeal. (ECF No. 86).

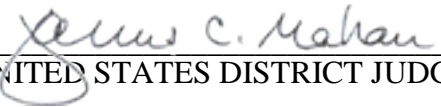
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Therefore, it appears that plaintiff's arguments on appeal would likely be "wholly without merit." Blixseth, 796 F.3d at 1007. Consequently, the appeal is not taken in good faith. See Hooker v. Am. Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002).

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's in forma pauperis status be, and the same hereby is, REVOKED.

DATED May 19, 2017.

  
UNITED STATES DISTRICT JUDGE