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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Michael Foley,
Plaintiff

v.

Kurt Graham, et al.,
Defendants

Case No.: 2:16-cv-01871-JAD-VCF

Ninth Circuit Case No.: 21-15024

**Order re: *In Forma Pauperis* Status
on Appeal**

[ECF No. 75]

9 The United States Court of Appeals for the Ninth Circuit referred this matter back to this
10 court for the limited purpose of determining whether *in forma pauperis* status should continue
11 for this appeal.¹ The decision to continue such status turns on whether any claim is frivolous, for
12 “[i]f at least one issue or claim is found to be non-frivolous, leave to proceed in forma pauperis
13 on appeal must be granted for the case as a whole.”²

14 In this civil-rights case, plaintiff Michael Foley sued Clark County, Nevada, and several
15 of its employees in their individual and official capacities, a family-court hearing master, his ex-
16 wife, and the Las Vegas Metropolitan Police department, for his arrest in 2014 for unpaid child
17 support. After several rounds of screening and dismissal, Foley was given another chance to
18 state a viable claim for relief against the remaining defendant in his official capacities only.³ I
19 found that Foley filed an amended complaint that not only failed to allege a plausible excessive-
20 force claim, but violated the express terms of this court’s previous order.⁴ So I granted the

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22 ¹ ECF No. 75.

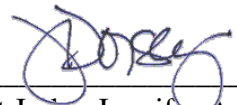
² *Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002).

23 ³ ECF No. 63.

⁴ ECF No. 71 at 1–2.

1 remaining defendant's motion to dismiss and dismissed the case with prejudice.⁵ Because the
2 appeal from that decision is frivolous and not taken in good faith, IT IS HEREBY ORDERED
3 THAT the district court finds that *in forma pauperis* status should not continue on appeal.

4 The Clerk of Court is directed to **SEND a copy of this order to the Clerk of the United**
5 **States Court of Appeals for Case No. 21-15024.**



U.S. District Judge Jennifer A. Dorsey
February 1, 2021

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⁵ *Id.* at 3.