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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

AIMEE LYNN O’NEIL,

Plaintiff,

vs.

STATE OF NEW YORK,

Defendant.

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Case No.: 2:20-cv-01203-GMN-VCF

App. No. 20-17487

ORDER

Before the Court is the Referral Notice, (ECF No. 14), of the United States Court of Appeals for the Ninth Circuit, which requests this Court to determine “whether [Plaintiff’s] *in forma pauperis* status should continue for this appeal” For the reasons discussed below, the Court **REVOKES** Plaintiff Aimee O’Neil’s (“Plaintiff’s”) *in forma pauperis* status.

Under 28 U.S.C. § 1915(a)(3), an appellant may have his *in forma pauperis* status revoked on appeal “if the trial court certifies in writing that [the appeal] is not taken in good faith.” Revocation is also appropriate where the appeal is wholly frivolous. *See Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002).

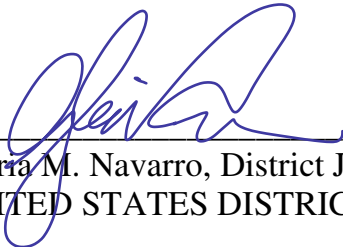
Here, the Complaint asserts that the State of New York hired men to harass and spy on Plaintiff. (*See* Compl. at 5, ECF No. 5). The Court has previously characterized Plaintiff’s allegations as frivolous. (Screening Order at 4:23–5:3, ECF No. 4); (Report and Recommendation 1:18–2:9, ECF No. 6); (Order Adopting Report and Recommendation, ECF No. 10). Even if Plaintiff’s allegations had factual merit, the State of New York is not amenable to suit because it has not waived its sovereign immunity guaranteed by the Eleventh Amendment to the United States Constitution. *See Alabama v. Pugh*, 438 U.S. 781, 782 (1978). Therefore, given that Plaintiff’s present appeal is frivolous, the Court revokes Plaintiff’s *in forma pauperis* status on appeal.

1 Accordingly,

2 **IT IS HEREBY ORDERED** that the Court **REVOKES** Plaintiff's *in forma pauperis*
3 status for the purpose of her pending appeal.

4 **IT IS FURTHER ORDERED** that the Clerk's Office shall provide the Circuit with a
5 copy of this Order.

6 Dated this 7 day of January, 2021.

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12 Gloria M. Navarro, District Judge
13 UNITED STATES DISTRICT COURT
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