

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

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| CRAIG THOMAS DAWSON and SUSAN) | |
| DAWSON,) | |
|) Civil No. 10-1473-PK | |
| Plaintiff,) | |
|)) | |
|)) | |
| v.)) | |
|)) | |
| C/O FINN, MS. CLEMENTE,) ORDER | |
| et al.,) | |
|)) | |
| Defendants.) | |

HERNANDEZ, District Judge.

Plaintiff, Craig Dawson, has filed a Notice of Appeal of the Court's Judgment [28]. The Ninth Circuit Court of Appeals has referred plaintiff's appeal (Ninth Circuit Court of Appeals Case No. 11-35747) to this Court to determine whether plaintiff's *in forma pauperis* status should continue or whether plaintiff's appeal is frivolous or taken in bad faith.

Under 28 U.S.C. § 1915(a)(3), "[a]n appeal may not be taken in *forma pauperis* if the trial court certifies in writing that it is not taken in good faith." "Not taken in good faith" means "frivolous." See *Ellis v. United States*, 356 U.S. 674, 674-75 (1958); *Gardner v. Progue*, 558 F.2d 548, 551 (9th Cir. 1977) (indigent appellant permitted to proceed IFP on appeal only if appeal would not be frivolous).

Given plaintiff's failure to comply with the Court's Order granting him leave to file an Amended Complaint curing the noted deficiencies in his original Complaint, the Court certifies that an *in forma pauperis* appeal of the Court's Order and Judgment dismissing his action would not be taken "in good faith."

CONCLUSION

Based on the foregoing, the Court certifies that an *in forma pauperis* appeal of the Court's Order and Judgment dismissing his action would not be taken "in good faith."

The Clerk of Court is directed to forward a copy of this Order to the Ninth Circuit Court of Appeals.

IT IS SO ORDERED.

DATED this 19 day of September, 2011.



Marco A. Hernández

United States District Judge