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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHARLES LEE GILLENWATER,

Plaintiff,

v.

JOHN T. RODGERS, United States
Magistrate Judge,

Defendant.

NO: 2:17-CV-0183-TOR

ORDER OF DISMISSAL WITH
PREJUDICE

BEFORE THE COURT are Plaintiff’s Complaint and Application to
Proceed *In Forma Pauperis*. ECF Nos. 1, 2. Plaintiff frivolously and maliciously
complains that his due process rights have been violated by the Magistrate Judge.

28 U.S.C. § 1915(e) “not only permits but requires” the court to *sua sponte*
dismiss an *in forma pauperis* complaint that is frivolous or malicious; fails to state
a claim on which relief may be granted; or seeks monetary relief against a
defendant who is immune from such relief. *Lopez v. Smith*, 203 F.3d 1122, 1126–
27 (9th Cir. 2000) (en banc). Plaintiff’s claims against Magistrate Judge Rodgers

1 are barred by absolute judicial immunity. *See Mullis v. U.S. Bankr. Court for Dist.*
2 *of Nev.*, 828 F.2d 1385, 1388-94 (9th Cir. 1987) (noting that “[j]udges are
3 absolutely immune from civil liability for damages in their judicial acts” and
4 judicial immunity for federal officers “extends to actions for declaratory,
5 injunctive, and other equitable relief”).

6 Pursuant to 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken *in forma*
7 *pauperis* if the trial court certifies in writing that it is not taken in good faith.” The
8 good faith standard is an objective one, and good faith is demonstrated when an
9 individual “seeks appellate review of any issue not frivolous.” *See Coppedge v.*
10 *United States*, 369 U.S. 438, 445 (1962). For purposes of 28 U.S.C. § 1915, an
11 appeal is frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*,
12 490 U.S. 319, 325 (1989).

13 The Court finds that any appeal of this Order would not be taken in good
14 faith and would lack any arguable basis in law or fact.

15 **ACCORDINGLY, IT IS HEREBY ORDERED:**

- 16 1. This action is **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C.
17 § 1915(e)(2)(B) as it is frivolous and malicious, fails to state a claim on
18 which relief may be granted and seeks monetary relief against a
19 defendant who is immune from such relief.

1 2. Plaintiff's Application to Proceed In Forma Pauperis (ECF No. 2) is

2 **DENIED** as moot.

3 3. Plaintiff is advised that the filing of further frivolous actions will result in

4 the imposition of more serious sanctions than dismissal.

5 The District Court Executive is directed to enter this Order, enter judgment
6 of dismissal with prejudice, forward a copy to Plaintiff, and **CLOSE** the file.

7 **DATED** June 6, 2017.



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Thomas O. Rice
THOMAS O. RICE
Chief United States District Judge