HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

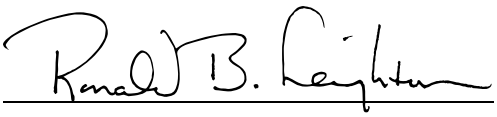
THOMAS WILLIAMS SINCLAIR RICHEY, Plaintiff, v. DOUGLAS THAUT, Defendant.	No. 11-cv-5680 RBL ORDER DENYING IFP STATUS ON APPEAL [Dkt. #27]

On February 26, 2012, this Court adopted the magistrate's report and recommendation dismissing the case. Plaintiff has filed an appeal and the question of continued *in forma pauperis* status is before the Court.

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad discretion in resolving the application, but "the privilege of proceeding *in forma pauperis* in civil actions for damages should be sparingly granted." *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir. 1963), *cert. denied* 375 U.S. 845 (1963). Moreover, a court should "deny leave to proceed *in forma pauperis* at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit." *Tripati v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir. 1987) (citations omitted); *see also* 28 U.S.C. § 1915(e)(2)(B)(i). An *in forma pauperis* complaint is frivolous if "it ha[s] no arguable substance in law or fact." *Id.* (citing *Rizzo v. Dawson*, 778 F.2d 527, 529 (9th Cir. 1985); *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

Plaintiff's appeal must be found frivolous. Magistrate Strombom properly recommended dismissal because Plaintiff failed to exhaust available remedies, as required by the Prison Litigation Reform Act, 42 U.S.C. § 1997e. Plaintiff's initial grievance (regarding denial of a shower after he made derogatory comments to a guard concerning her weight) was returned to him so that he could delete "objectionable language." Instead of removing the objectionable language, Plaintiff filed a grievance on a grievance. He then filed this lawsuit. The Complaint is without merit, the appeal is frivolous, and *in forma pauperis* status is **REVOKED**. (Dkt. #27.)

Dated this 16th day of April 2012.



RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE