

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RONALD BUZZARD, JR.,

Plaintiff,

v.

ISRB/CCB,

Defendant.

CASE NO. C15-5874-RBL

ORDER REVOKING IFP STATUS

DKT. #52

THIS MATTER is before the Court on referral from the Ninth Circuit to determine whether Plaintiff Buzzard's *in forma pauperis* status should continue on appeal [Dkt. #52].

Buzzard pled guilty to Rape of a Child in the First Degree. The Defendant Indeterminate Sentence Review Board thrice denied him release from prison because he refused to participate in a sex offender treatment program. When Buzzard agreed to participate, the Board found him releasable.

Buzzard sued the Board and its (former and current) members under 42 U.S.C. § 1983, alleging its denials were retaliatory. The Court granted him *in forma pauperis* status [Dkt. #6]. The Board moved to dismiss his complaint [Dkt. #22], which Magistrate Judge Strombom recommended the Court grant [Dkt. #40]. She also recommended that the Court deny Buzzard's

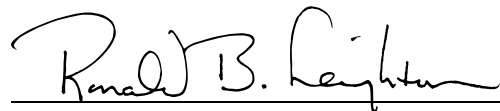
1 motion for a temporary restraining order as moot. The Court adopted her Report and  
2 Recommendation [Dkt. #44] because Buzzard cannot sue the Board under 42 U.S.C. § 1983 and  
3 its members are entitled to absolute quasi-judicial immunity.

4 “An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it  
5 is not taken in good faith.” 28 U.S.C. §1915(a)(3); *see also Hooker v. American Airlines*, 302  
6 F.3d 1091, 1092 (9th Cir. 2002) (revocation of forma pauperis status is appropriate where district  
7 court finds the appeal to be frivolous). The Court must determine whether Buzzard’s appeal is  
8 frivolous or malicious, or fails to state a claim upon which relief may be granted. *See* 28 U.S.C.  
9 §1915(e)(2)(B)(i)&(ii).

10 No cognizable legal theory can sustain Buzzard’s claims against the Board or its  
11 members. The Board is not a person under § 1983, and parole board members are entitled to  
12 absolute immunity for parole board decisions. *See Will v. Michigan Dep’t of State Police*, 491  
13 U.S. 58, 109 S. Ct. 2304 (1989) (an entity with Eleventh Amendment immunity is not a “person”  
14 within the meaning of § 1983); *see also Brown v. Cal. Dep’t of Corr.*, 554 F.3d 747, 751 (9th  
15 Cir. 2009) (parole board members are entitled to immunity). Because Buzzard fails to state a  
16 claim upon which relief may be granted, the Court REVOKES his *in forma pauperis* status.

17 IT IS SO ORDERED.

18 Dated this 5<sup>th</sup> day of May, 2016.

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21 Ronald B. Leighton  
22 United States District Judge  
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