

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 13 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CHRISTOPHER ISAAC SIMMONS,

Plaintiff - Appellant,

v.

GRISSOM; et al.,

Defendants - Appellees.

No. 18-16357

D.C. No. 1:07-cv-01058-DAD-SAB
U.S. District Court for Eastern
California, Fresno

ORDER

A review of the docket demonstrates that appellant has failed to respond to the January 23, 2019 order of this court.

Pursuant to Ninth Circuit Rule 42-1, this appeal is dismissed for failure to prosecute.

This order served on the district court shall, 21 days after the date of the order, act as the mandate of this court.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Tina S. Price
Deputy Clerk
Ninth Circuit Rule 27-7

FILED

JUL 18 2018

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY
DEPUTY CLERK

1 Christopher Simmons P-25328
California Medical Facility
2 1600 California Dr., P.O. Box 2500
Vacaville, Calif. 95696
3 In Pro Se
4
5

6 **UNITED STATES DISTRICT COURT**
7 **EASTERN DISTRICT OF CALIFORNIA**
8

9 CHRISTOPHER SIMMONS,) Case No. 07-cv-01058-DAD-SAB
10 Plaintiff/Appellant,)
11 VS) NOTICE OF APPEAL OF THE JUDGMENT
12 R. GRISSOM, et al.,) ENTERED ON JUNE 21, 2018, GRANTIN
13 Defendants/Appellees.) SUMMARY JUDGMENT TO DEFENDANTS
14

15 Plaintiff, Christopher Simmons hereby submits this NOTIC OF APPEAL, of the
16 judgment entered on June 21, 2018 granting summary judgment in favor of Defendants,
17 each of them and all of them in the above entitled matter. Plaintiff was found to be
18 under imminent danger of serious physical injury, and remains under imminent danger
19 of serious physical injury as set forth herein below.

20 Plaintiff raises the following points on appeal:

21 1) The trial court abused its discretion by denying consolidation of two
22 related cases involving a chronological sequence of events which evidenced,
23 among other things, retaliatory treatment in the course of several
24 constitutional violations asserted in the complaint, found to state a claim for
25 which relief could be granted;

26 2) Plaintiff was subjected to bias and/or the appearance of bias as a result
27 of the Ninth Circuit's "reversal and remand";

28 3) Plaintiff was denied access to and/or from obtaining relevant material

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CHRISTOPHER ISAAC SIMMONS,

Plaintiff-Appellant,

v.

GRISSOM; et al.,

Defendants-Appellees.

No. 18-16357

D.C. No. 1:07-cv-01058-DAD-SAB
Eastern District of California,
Fresno

ORDER

Before: GOULD and PAEZ, Circuit Judges.

Appellees' request for judicial notice of appellant's litigation history (Docket Entry No. 4) is granted.

Appellees' motion to revoke appellant's in forma pauperis status (Docket Entry No. 3) is granted. Appellant's in forma pauperis status is revoked for this appeal because appellant has had three or more prior actions or appeals dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, and appellant has not alleged imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g).

Within 21 days after the date of this order, appellant shall pay \$505.00 to the district court as the docketing and filing fees for this appeal and file proof of payment with this court. Failure to pay the fees will result in the automatic dismissal of the

appeal by the Clerk for failure to prosecute, regardless of further filings. *See* 9th Cir. R. 42-1.

No motions for reconsideration, clarification, or modification of the denial of appellant's in forma pauperis status shall be entertained.

If the appeal is dismissed for failure to comply with this order, the court will not entertain any motion to reinstate the appeal that is not accompanied by proof of payment of the docketing and filing fees.

Briefing is suspended pending further order of this court.