

VERIFICATION

State of California
County of San Diego

(C.C.P. §445 & 2015.5; 28 U.S.C. §1746)

I, Ricardo Valdez declare under penalty of perjury that I am the Declarant/Prisoner in the above entitled action; I have read the foregoing documents and know the contents thereof and the same is true of my own knowledge., except as to matters stated therein upon information, and belief, and as to those matters, I believe them to be true.

Executed this 3 day of June, in the year of 2021 at R.J. Donovan Correctional Facility (RJD) 480 Alta Road, San Diego, CA 92179.

Signature: R. Valdez
(Declarant/Prisoner)

PROOF OF SERVICE BY MAIL

(C.C.P. §1013 (a) & 2015.5; 28. U.S.C. §1746)

I, Ricardo Valdez am a resident of R.J. Donovan Correctional Facility (RJDCF), in the county of San Diego, state of California. I am over the age of eighteen (18) years of age and am / am not a party of the above entitled action. My state prison address is 480 Alta Road, San Diego, CA 92179.

On 6-3-21, I served the foregoing:

Writ of Ce^tciorari

(Set forth exact title of document served)

On the party(s) herein by placing a true copy(s) thereof, enclosed in a sealed envelope(s); with postage thereon fully paid, in the United States mail, in a deposit box so provided at RJDCF.

Supreme Ct of The U.S.
Washington D.C. 20543

Mrs. D. Iglesias
Supervising Deputy Att. General
P.O.Box 944255
Sacramento, CA 94244-2550

There is a delivery service by United States mail at the place so addressed, and there is regular communication by mail between the place of mailing and the place so addressed. I declare under penalty of perjury that the foregoing is true and correct.

Date: 6-3-21 Ricardo Valdez
(Declarant/Prisoner) (Plaintiff in Pro Se)

A

E

X

H

I

B

I

T

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NOV 12 2020

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

RICARDO VALDEZ,

Plaintiff-Appellant,

v.

WALKER, C.O.; et al.,

Defendants-Appellees.

No. 20-15776

D.C. No. 2:08-cv-01978-DAE
Eastern District of California,
Sacramento

ORDER

Before: THOMAS, Chief Judge, TASHIMA and W. FLETCHER, Circuit Judges.

The district court certified that this appeal is not taken in good faith and revoked appellant's in forma pauperis status. *See* 28 U.S.C. § 1915(a). On May 1, 2020, this court ordered appellant to explain in writing why this appeal should not be dismissed as frivolous. *See* 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

Upon a review of the record and the responses to the court's May 1, 2020 order, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 10) and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2).

All other pending motions are denied as moot.

DISMISSED.

B

E

X

H

I

B

I

T

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICARDO VALDEZ, § No. 2:08-CV-1978-DAE
§
Plaintiff, §
§
vs. §
§
CORRECTIONAL OFFICERS §
WALKER, GUFFEE, and VORON, et §
al., §
§
Defendants. §

ORDER CERTIFYING THAT PLAINTIFF'S APPEAL IS NOT IN GOOD
FAITH UNDER 28 U.S.C. § 1915(A)(3)

This is a closed federal civil rights action. Plaintiff Ricardo Valdez (“Plaintiff”), a current inmate at the R.J. Donovan Correctional Facility in San Diego, California, appeals to the Ninth Circuit Court of Appeals this Court’s denial of his motion to reopen the case. The Ninth Circuit referred the matter to this Court for a determination of whether Plaintiff’s in forma pauperis (“IFP”) status “should continue for this appeal or whether the appeal is frivolous or taken in bad faith.” (Dkt. # 78.)

This Court determines that Plaintiff’s IFP status should not continue. There are no valid grounds on which an appeal can be based given that none of the arguments that Plaintiff made to this Court would be non-frivolous if made again on appeal. This Court twice dismissed Plaintiff’s motions to reopen (Dkts. ## 71,

73) because Plaintiff's time to request to be appointed counsel had long passed,¹ and the Court stands by its previous May 10, 2012 Order granting summary judgment for Defendants.² Based on the record before it, the Court finds and certifies that any appeal taken from its Order denying Plaintiff's motion to reopen is not taken in good faith. See 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3)(A); Hooker v. American Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002) (noting that an appeal is taken in "good faith" if it seeks review of "non-frivolous" issues); O'Loughlin v. Doe, 920 F.2d 614, 617 (9th Cir. 1990) ("[A]n issue is frivolous if it has 'no arguable basis in fact or law.'") (citation omitted)).

Accordingly, Plaintiff's IFP status is hereby **REVOKED**.

The Clerk of the Court shall forthwith notify Plaintiff and the Ninth Circuit of this Order. See Fed. R. App. P. 24(a)(4). Plaintiff may file a motion for leave to proceed IFP on appeal in the Ninth Circuit within thirty (30) days after service of notice of this Order. See Fed. R. App. P. 24(a)(5). Any such motion "must include a copy of the affidavit filed in the district court and the district court's statement of reasons for its action." Id.

¹ Plaintiff has been proceeding IFP since January 8, 2009 (Dkt. # 10).

² Notably, Plaintiff appealed this Court's judgment on October 9, 2012 (Dkt. # 62), and the Ninth Circuit Court of Appeals denied that appeal for lack of jurisdiction on November 8, 2012 (Dkt. # 66).

IT IS SO ORDERED.

DATED: San Antonio, Texas, April 30, 2020.



A handwritten signature in black ink, appearing to read "David Alan Ezra".

David Alan Ezra
Senior United States District Judge

MIME-Version:1.0 From:caed_cmeccf_helpdesk@caed.uscourts.gov To:CourtMail@localhost.localdomain
Message-Id: Subject:Activity in Case 2:08-cv-01978-DAE (PC) Valdez v Walker, et al., Order.
Content-Type: text/html

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** There is no charge for viewing opinions.**

U.S. District Court

Eastern District of California – Live System

Notice of Electronic Filing

The following transaction was entered on 4/30/2020 at 8:35 AM PDT and filed on 4/30/2020

Case Name: (PC) Valdez v Walker, et al.,

Case Number: 2:08-cv-01978-DAE

Filer:

WARNING: CASE CLOSED on 05/10/2012

Document Number: 79

Docket Text:

ORDER signed by Senior Judge David Alan Ezra on 4/30/2020 REVOKING plaintiff's IFP status. Plaintiff may file a motion for leave to proceed IFP on appeal in the Ninth Circuit within 30 days after being served with this order. (cc Ninth Circuit Court) (Coll, A)

2:08-cv-01978-DAE Notice has been electronically mailed to:

Misha D. Igra misha.igra@doj.ca.gov, danielle.jones@doj.ca.gov,
DocketingSACCLS@doj.ca.gov, ECFCoordinator@doj.ca.gov, Tanisha.Worthy@doj.ca.gov

2:08-cv-01978-DAE Electronically filed documents must be served conventionally by the filer to:

Ricardo Valdez
E-98488
R.J. DONOVAN CORRECTIONAL FACILITY (480)
480 Alta Road
San Diego, CA 92179

The following document(s) are associated with this transaction:

C

E

X

H

I

B

I

T

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 12 2021

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

RICARDO VALDEZ,

No. 20-15776

Plaintiff - Appellant,

D.C. No. 2:08-cv-01978-DAE
U.S. District Court for Eastern
California, Sacramento

v.

WALKER, C.O.; et al.,

MANDATE

Defendants - Appellees.

The judgment of this Court, entered November 12, 2020, takes effect this

date.

This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Quy Le
Deputy Clerk
Ninth Circuit Rule 27-7

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MAR 4 2021

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

RICARDO VALDEZ,

Plaintiff-Appellant,

v.

WALKER, C.O.; et al.,

Defendants-Appellees.

No. 20-15776

D.C. No. 2:08-cv-01978-DAE
Eastern District of California,
Sacramento

ORDER

Before: THOMAS, Chief Judge, TASHIMA and W. FLETCHER, Circuit Judges.

Valdez's motion for an extension of time (Docket Entry No. 15) is denied as unnecessary.

Valdez's motion for reconsideration (Docket Entry No. 16) is denied. *See* 9th Cir. R. 27-10.

No further filings will be entertained in this closed case.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 1 2020

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

RICARDO VALDEZ,

Plaintiff-Appellant,

v.

WALKER, C.O.; et al.,

Defendants-Appellees.

No. 20-15776

D.C. No. 2:08-cv-01978-DAE
Eastern District of California,
Sacramento

ORDER

Before: THOMAS, Chief Judge, TASHIMA and W. FLETCHER, Circuit Judges.

Valdez's motion for an extension of time to file a motion for reconsideration (Docket Entry No. 13) is granted. Any motion for reconsideration is due on January 13, 2021.

D

E

X

H

I

B

I

T

**Additional material
from this filing is
available in the
Clerk's Office.**