

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 8 2021

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

SAMUEL LEE GORE,

Plaintiff-Appellant,

v.

GUS J. SKROPAS; et al.,

Defendants-Appellees.

No. 20-56040

D.C. No.

5:20-cv-01900-DOC-JEM

Central District of California,
Riverside

ORDER

Before: SILVERMAN, NGUYEN, AND R. NELSON, Circuit Judges.

On October 9, 2020, the 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 response to the court's October 9, 2020 order, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 3) and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2).

Appellant's motion to seal this appeal (Docket Entry No. 8) is denied.

All other pending motions are denied as moot.

No further filings will be accepted in this closed case.

DISMISSED.

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OCT 9 2020

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ORDER

A review of the district court's docket reflects that the district court denied appellant leave to proceed in forma pauperis because it found that the action was frivolous. This court may dismiss a case at any time, if the court determines the case is frivolous. *See* 28 U.S.C. § 1915(e)(2).

Within 35 days after the date of this order, appellant must:

- (1) file a motion to dismiss this appeal, *see* Fed. R. App. P. 42(b), or
- (2) file a statement explaining why the appeal is not frivolous and should go forward.

If appellant files a statement that the appeal should go forward, appellant also must:

- (1) file in this court a motion to proceed in forma pauperis, OR
- (2) pay to the district court \$505.00 for the filing and docketing fees for this appeal AND file in this court proof that the \$505.00 was paid.

If appellant does not respond to this order, the Clerk will dismiss this appeal for failure to prosecute, without further notice. *See* 9th Cir. R. 42-1. If appellant files a motion to dismiss the appeal, the Clerk will dismiss this appeal, pursuant to Federal Rule of Appellate Procedure 42(b). If appellant submits any response to this order other than a motion to dismiss the appeal, the court may dismiss this appeal as frivolous, without further notice. If the court dismisses the appeal as frivolous, this appeal may be counted as a strike under 28 U.S.C. § 1915(g).

The briefing schedule for this appeal is stayed.

The Clerk shall serve on appellant: (1) a form motion to voluntarily dismiss the appeal, (2) a form statement that the appeal should go forward, and (3) a Form 4 financial affidavit. Appellant may use the enclosed forms for any motion to dismiss the appeal, statement that the appeal should go forward, and/or motion to proceed in forma pauperis.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Corina Orozco
Deputy Clerk
Ninth Circuit Rule 27-7

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INMATE # V-38004

CASE NUMBER

SAMUEL LEE GORE,

EDCV 20-1900-DOC (JEM)

PLAINTIFF(S)

v.

JUDGE GUS J. SKROPAS, et al.,

**ORDER RE REQUEST TO PROCEED WITHOUT
PREPAYMENT OF FILING FEES**

DEFENDANT(S)

IT IS ORDERED that the Request to Proceed Without Prepayment of Filing Fees is hereby GRANTED.**IT IS FURTHER ORDERED** that, in accordance with 28 U.S.C. § 1915, the prisoner-plaintiff owes the Court the total filing fee of \$350.00. An initial partial filing fee of \$ _____ must be paid within thirty (30) days of the date this order is filed. Failure to remit the initial partial filing fee may result in dismissal of the case. Thereafter, monthly payments shall be forwarded to the Court in accordance with 28 U.S.C. § 1915(b)(2).

Date

United States Magistrate Judge

IT IS RECOMMENDED that the Request to Proceed Without Prepayment of Filing Fees be **DENIED** for the following reason(s):

- | | |
|---|---|
| <input type="checkbox"/> Inadequate showing of indigency. | <input checked="" type="checkbox"/> Frivolous, malicious, or fails to state a claim upon which relief may be granted. |
| <input type="checkbox"/> Failure to authorize disbursements from prison trust account to pay the filing fees. | <input checked="" type="checkbox"/> Seeks monetary relief from a defendant immune from such relief. |
| <input type="checkbox"/> Failure to provide certified copy of trust fund statement for the last six (6) months. | <input checked="" type="checkbox"/> Leave to amend would be futile. |
| <input type="checkbox"/> District Court lacks jurisdiction. | <input checked="" type="checkbox"/> This denial may constitute a strike under the "Three Strikes" provision governing the filing of prisoner suits. <i>See O'Neal v. Price</i> , 531 F.3d 1146, 1153 (9th Cir. 2008). |
| <input checked="" type="checkbox"/> Other <u>Plaintiff challenges validity of conviction for which he is currently imprisoned....</u> | |

Comments:

Absolute judicial immunity and prosecutorial immunity bar claims against all defendants. Claims also barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), because success here would imply conviction is invalid.

September 17, 2020

/s/ John E. McDermott

Date

United States Magistrate Judge

IT IS ORDERED that the Request to Proceed Without Prepayment of Filing Fees is:

- ☐ **GRANTED. IT IS FURTHER ORDERED** that, in accordance with 28 U.S.C. § 1915, the prisoner-plaintiff owes the Court the total filing fee of \$350.00. An initial partial filing fee of \$ _____ must be paid within thirty (30) days of the date this order is filed. Failure to remit the initial partial filing fee may result in dismissal of the case. Thereafter, monthly payments shall be forwarded to the Court in accordance with 28 U.S.C. § 1915(b)(2).
- ☐ **DENIED.** Plaintiff SHALL PAY THE FILING FEES IN FULL within 30 days or this case will be dismissed.
- ☒ **DENIED**, and this case is hereby DISMISSED immediately.
- ☐ **DENIED, with leave to amend within 30 days.** Plaintiff may re-submit the IFP application and Complaint to this Court, if submitted with the Certified Trust Account Statement and Disbursement Authorization. Plaintiff shall utilize the same case number. If plaintiff fails to submit the required documents within 30 days, this case shall be DISMISSED.

September 18, 2020


 United States District Judge

Date