

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 28 2022

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

CARINA CONERLY,

No. 22-15221

Plaintiff - Appellant,

D.C. No. 2:21-cv-01076-TLN-JDP
U.S. District Court for Eastern
California, Sacramento

v.

JOHN PATRICK WINN; et al.,

MANDATE

Defendants - Appellees.

The judgment of this Court, entered December 06, 2022, 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: Howard Hom
Deputy Clerk
Ninth Circuit Rule 27-7

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 6 2022

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

CARINA CONERLY,

Plaintiff-Appellant,

v.

JOHN PATRICK WINN; et al.,

Defendants-Appellees.

No. 22-15221

D.C. No. 2:21-cv-01076-TLN-JDP
Eastern District of California,
Sacramento

ORDER

Before: CANBY, CALLAHAN, and BADE, Circuit Judges.

The district court certified that this appeal is frivolous and revoked appellant's in forma pauperis status. *See* 28 U.S.C. § 1915(a). On March 14, 2022, 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 response to the court's March 14, 2022 order, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 8) and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2).

No further filings will be entertained in this closed case.

DISMISSED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED
FEB 15 2022

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

CARINA CONERLY,

Plaintiff - Appellant,

v.

JOHN PATRICK WINN; et al.,

Defendants - Appellees.

No. 22-15221

D.C. No. 2:21-cv-01076-TLN-JDP
U.S. District Court for Eastern
California, Sacramento

REFERRAL NOTICE

This matter is referred to the district court for the limited purpose of determining whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. *See* 28 U.S.C. § 1915(a)(3); *see also* *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of forma pauperis status is appropriate where district court finds the appeal to be frivolous).

If the district court elects to revoke in forma pauperis status, the district court is requested to notify this court and the parties of such determination within 21 days of the date of this referral. If the district court does not revoke in forma pauperis status, such status will continue automatically for this appeal pursuant to Fed. R. App. P. 24(a).

This referral shall not affect the briefing schedule previously established by this court.

APPENDIX B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CARINA CONERLY.

Plaintiff.

No. 2:21-cv-01076-TLN-JDP

1

ORDER

JOHN PATRICK WINN, et al.,

Defendants.

Plaintiff Carina Conerly ("Plaintiff") is a state prisoner, proceeding *pro se*, with a civil rights action pursuant to 42 U.S.C. § 1983. On February 1, 2022, the Court dismissed this action and judgment was entered. (ECF Nos. 6, 7.) Plaintiff appealed the judgment to the Ninth Circuit Court of Appeals. (ECF No. 8.)

On February 15, 2022, the Ninth Circuit referred the matter to this Court for the limited purpose of determining whether Plaintiff's *in forma pauperis* ("IFP") status should continue on appeal or whether the appeal is frivolous or taken in bad faith. (ECF No. 11 at 1 (citing 28 U.S.C. § 1915(a)(3); *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002))).

“An appeal may not be taken [IFP] if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). “The test for allowing an appeal [IFP] is easily met ... [t]he good faith requirement is satisfied if the [appellant] seeks review of any issue that is ‘not

MIME-Version:1.0 From:caed_cmech_helpdesk@caed.uscourts.gov To:CourtMail@localhost.localdomain
Message-Id: Subject:Activity in Case 2:21-cv-01076-TLN-JDP (PS) Conerly v. Winn 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 3/9/2022 at 9:58 AM PST and filed on 3/9/2022

Case Name: (PS) Conerly v. Winn et al

Case Number: 2:21-cv-01076-TLN-JDP

Filer:

WARNING: CASE CLOSED on 02/01/2022

Document Number: 12

Docket Text:

ORDER signed by District Judge Troy L. Nunley on 3/8/22 REVOKING Plaintiff's in forma pauperis status on appeal. The Clerk is directed to serve this Order on the Ninth Circuit Court of Appeals in Case No. 22-15221. (Kastilahn, A)

2:21-cv-01076-TLN-JDP Notice has been electronically mailed to:

2:21-cv-01076-TLN-JDP Electronically filed documents must be served conventionally by the filer to:

Carina Conerly
1501 Amazon Ave.
Sacramento, CA 95835

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

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 CARINA CONERLY,

No. 2:21-cv-01076-TLN-JDP

12 Plaintiff,

ORDER

14 JOHN PATRICK WINN, et al.,

15 Defendants.

17 On January 3, 2022, the magistrate judge filed findings and recommendations herein
18 which were served on Plaintiff and which contained notice that any objections to the findings and
19 recommendations were to be filed within fourteen days. (ECF No. 4.) Plaintiff filed objections
20 on January 13, 2022, which this Court considered. (ECF No. 5.)

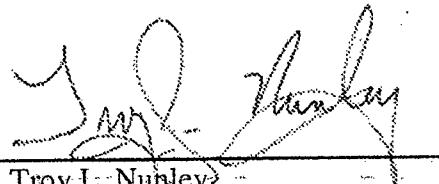
21 The Court presumes that any findings of fact are correct. *See Orand v. United States*, 602
22 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed *de novo*.
23 *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law by the
24 magistrate judge are reviewed *de novo* by both the district court and [the appellate] court").
25 Having reviewed the file, the Court finds the findings and recommendations to be supported by
26 the record and by the proper analysis.

27 | Accordingly, IT IS HEREBY ORDERED that:

²⁸ 1. The proposed Findings and Recommendations filed January 3, 2022, are adopted;

1 2. Plaintiff's case is dismissed with prejudice as frivolous; and
2 3. The Clerk of Court is directed to close this case.

3
4 DATED: January 31, 2022

5
6
7 
8 Troy L. Nuhley
9 United States District Judge

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

APPENDIX C

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CARINA CONERLY,

Plaintiff,

v.

JOHN PATRICK WINN, *et al.*,

Defendants.

Case No. 2:21-cv-01076-TLN-JDP (PS)

SCREENING ORDER

ECF No. 1

ORDER GRANTING MOTION TO
PROCEED IN *FORMA PAUPERIS*

ECF No. 2

FINDINGS AND RECOMMENDATIONS
THAT THIS CASE BE DISMISSED

OBJECTIONS DUE WITHIN 14 DAYS

ORDER

Plaintiff moves to proceed without prepayment of filing fees, ECF No. 2. Plaintiff's affidavit satisfies the requirements to proceed without prepayment of fees. *See* 28 U.S.C. § 1915(a). Thus, the motion, ECF No. 2, is granted.

FINDINGS AND RECOMMENDATIONS

Having granted plaintiff's motion to proceed *in forma pauperis*, this complaint is now subject to screening under 28 U.S.C. § 1915(e). The court must dismiss any action filed in *forma pauperis* that is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from suit. 28 U.S.C. § 1915(e)(2)(B).

1 Plaintiffs bring this case as an attempt to challenge state child custody proceedings,
2 seeking reversal of “ordered acts” and \$800 million in damages. ECF No. 1. Plaintiff has had
3 substantially similar lawsuits dismissed as patently frivolous, for lack of jurisdiction, and for
4 failure to state a claim. *See, e.g., Conerly v. Yap*, 2:21-cv-01132-TLN-CKD, Findings and
5 Recommendations at ECF No. 8 (October 27, 2021) (recommending dismissal of plaintiff’s case
6 for failure to state a claim because of immunity from suit), adopted November 30, 2021; *Conerly*
7 *v. Winn*, 2:20-cv-01833-JAM-AC, Findings and Recommendations at ECF No. 4 (September 16,
8 2020) (recommending dismissal of plaintiff’s case for lack of jurisdiction because challenge to
9 child custody proceedings is barred by Rooker-Feldman Doctrine and state court judge is immune
10 from suit), adopted October 27, 2020, affirmed on appeal July 2, 2021; *Conerly v. Superior*
11 *Court*, 2:20-cv-00362-KJM-KJN, Findings and Recommendations at ECF No. 16 (April 29,
12 2020) (recommending dismissal based upon immunity of Superior Court judges and frivolous
13 claims against other defendants), adopted July 20, 2020, appeal dismissed as frivolous February
14 12, 2021. Duplicative lawsuits filed by a plaintiff proceeding in forma pauperis are subject to
15 dismissal as either frivolous or malicious under 28 U.S.C. § 1915(e). *See, e.g., Cato v. United*
16 *States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995). This case is duplicative of those cases and equally
17 frivolous because plaintiff cannot challenge state court child custody actions here.

18 Accordingly, it is recommended that plaintiff’s case be dismissed with prejudice as
19 frivolous.

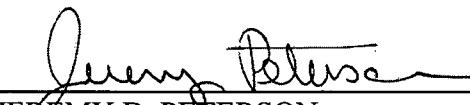
20 I submit these findings and recommendations to the district judge under 28 U.S.C.
21 § 636(b)(1)(B) and Rule 304 of the Local Rules of Practice for the United States District Court,
22 Eastern District of California. Plaintiffs may, within 14 days of the service of the findings and
23 recommendations, file written objections to the findings and recommendations with the court.
24 Such objections should be captioned “Objections to Magistrate Judge’s Findings and
25 Recommendations.” The district judge will review the findings and recommendations under 28
26 U.S.C. § 636(b)(1)(C).

27

28

1
2 IT IS SO ORDERED.
3

4 Dated: December 29, 2021
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE