

FILED

UNITED STATES COURT OF APPEALS

JUN 30 2011

FOR THE NINTH CIRCUIT

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

<p>BRIAN DAVID MATTHEWS,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>PIERCE COUNTY, a home rule charter organization,</p> <p>Defendant - Appellee.</p>

No. 11-35382

D.C. No. 3:11-cv-05131-RBL
Western District of Washington,
Tacoma

ORDER

Before: CANBY and GOULD, Circuit Judges.

The district court has certified that this appeal is not taken in good faith.

Our review of the record confirms that appellant is not entitled to in forma pauperis status for this appeal because we find the appeal is frivolous. *See* 28 U.S.C.

§ 1915(a).

Accordingly, within 21 days after the date of this order, appellant shall pay \$455.00 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.

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

If appellant pays the fees as required and files proof of such payment in this court, appellant shall simultaneously show cause why the judgment challenged in this appeal should not be summarily affirmed. *See* 9th Cir. R. 3-6. If appellant pays the fees but fails to file a response to this order, the Clerk shall dismiss this appeal for failure to prosecute. *See* 9th Cir. R. 42-1.

If the appeal is dismissed for failure to comply with this order, the Clerk shall not file or entertain any motion to reinstate the appeal that is not accompanied by proof of payment of the docketing and filing fees and a response to the order to show cause.

Briefing is suspended pending further order of this court.

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U.S. District Court for Western
Washington, Tacoma

ORDER

A review of the file in this case reveals that the appellant has failed to perfect the appeal as prescribed by the Federal Rules of Appellate Procedure.

Pursuant to Ninth Circuit Rule 42-1, this appeal is dismissed for failure to pay the docketing/filing fees in this case.

This order served on the district court shall constitute the mandate of this court.

FOR THE COURT:
Molly C. Dwyer
Clerk of Court

Tina S. Price
Deputy Clerk