

FILED

UNITED STATES COURT OF APPEALS

NOV 18 2015

FOR THE NINTH CIRCUIT

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

STEVEN DARBY MCDONALD,

Plaintiff - Appellant,

v.

JAMES EDWARDS, M.D., Medical
Director, WSP; et al.,

Defendants - Appellees.

No. 15-35668

D.C. No. 2:13-cv-00222-SAB
Eastern District of Washington,
Spokane

ORDER

Before: W. FLETCHER and OWENS, Circuit Judges.

The district court has certified that this appeal is not taken in good faith and has revoked appellant's in forma pauperis status. We deny appellant's motion to proceed in forma pauperis because we also find the appeal is frivolous. *See* 28 U.S.C. § 1915(a).

If appellant wishes to pursue this appeal despite the court's finding that it is frivolous then, 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. Otherwise, the appeal will be dismissed by the Clerk for failure to prosecute, regardless of further filings. *See* 9th Cir. R. 42-1.

AC/MOATT

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

Because the court has found that this appeal is frivolous, the district court order may be summarily affirmed even if appellant pays the fees. If appellant pays the fees and files proof of such payment in this court, appellant therefore shall simultaneously show cause why the order challenged in this appeal should not be summarily affirmed. *See* 9th Cir. R. 3-6. If appellant elects to show cause, a response may be filed within 10 days after service of appellant's filing. If appellant pays the fees but fails to file a response to this order, the court will determine whether to summarily affirm the order challenged in this appeal based on the opening brief received on September 17, 2015.

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.