

FILED

UNITED STATES COURT OF APPEALS

SEP 11 2013

FOR THE NINTH CIRCUIT

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

CARLOS JOHN WILLIAMS,

No. 13-35647

Plaintiff - Appellant,

D.C. No. 3:13-cv-05505-RJB
Western District of Washington,
Tacoma

v.

DEPARTMENT OF CORRECTIONS; et
al.,

ORDER

Defendants.

Before: TASHIMA and M. SMITH, Circuit Judges.

Appellant's motion for an extension of time to file a motion to proceed in forma pauperis is denied as unnecessary because appellant's motion to proceed in forma pauperis was timely filed.

Appellant's "motion to amend additional facts" in support of the motion to proceed in forma pauperis and motion for appointment of counsel is granted. The court is in receipt of the supplement filed on August 12, 2013.

Appellant's motion for appointment of counsel is denied.

Appellant's motion to proceed in forma pauperis is also denied because we find that the appeal is frivolous. 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

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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. Otherwise, the appeal will be dismissed by the Clerk for failure to prosecute, regardless of further filings. *See* 9th Cir. R. 42-1.

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

Because the court has found that this appeal is frivolous, the district court judgment 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 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 court will determine whether to summarily affirm the judgment in this appeal based on the opening brief submitted on August 1, 2013.

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.

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OCT 18 2013

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Defendants.

No. 13-35647

D.C. No. 3:13-cv-05505-RJB

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