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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANDRE JUSTE,

Plaintiff,

v.

MARTINEZ *et al.*,

Defendants.

No. C 16-07399 WHA

**ORDER DENYING
PERMISSION TO APPEAL IN
FORMA PAUPERIS**

On May 4, an order dismissed plaintiff Andre Juste's action on the grounds that he filed in an inappropriate venue, and the allegations in his complaint were not comprehensible and did not form the basis of a cognizable claim (Dkt. No. 9 at 2). On July 5, Juste filed a notice of appeal in which he seeks to proceed *in forma pauperis* (Dkt. No. 11).

Section 1915(a)(3) of Title 28 of the United States Code provides that "[a]n appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith." Good faith is demonstrated when an appellant seeks "review of any issue not frivolous." *Coppedge v. United States*, 369 U.S. 438, 444 (1962). An appeal is frivolous "where none of the legal points [are] arguable on the merits." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989)

Here, Juste's appeal is frivolous. He has not stated any viable legal theory on which to appeal, and his complaint was filed in the wrong venue. Because the appeal is not taken in good faith, the motion to proceed *in forma pauperis* is **DENIED**.

IT IS SO ORDERED.

Dated: August 2, 2017.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE