

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION**

**GEOFFREY H. ANDERSON,**

**Plaintiff,**

v.

**Case No: 5:15-cv-26-Oc-30PRL**

**JOHN MOORE, CHARLES W.  
RUSSELL, JOHN FLYNN, ANDY  
AULD, SCOTT PENVOSE and CITY OF  
GROVELAND**

**Defendants.**

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**ORDER**

*Pro se* Plaintiff filed this case January 2015. (Doc. 1). After he amended his complaint (Docs. 5, 8), the Court granted Plaintiff's motion to proceed at trial *in forma pauperis* (Docs. 9, 10). To date, all of Plaintiff's claims have either been voluntarily dropped by Plaintiff or resolved against him. (Docs. 50, 73, 117, 123).

Now, Plaintiff seeks to proceed on appeal *in forma pauperis*. (Doc. 127). After reviewing his motion, I deferred ruling and afforded Plaintiff an opportunity to file a new affidavit, as his original affidavit failed to comply with the Federal Rule of Appellate Procedure 24. (Doc. 129). I then recommended that Plaintiff's motion be denied because "despite being given the opportunity to amend his affidavit, Plaintiff has not amended, nor has he otherwise responded to the order to amend." (Doc. 136, p. 3). Plaintiff has now, however, responded and filed a new

affidavit. (Doc. 137). Though untimely, and containing inappropriate content, the Court will consider the affidavit and specific legal issues he seeks to challenge on appeal.<sup>1</sup>

Under Federal Rule of Appellate Procedure 24, a motion to proceed *in forma pauperis* on appeal must be filed in the district court and must have an attached affidavit that (1) shows the party's inability to pay, (2) claims an entitlement to redress, and (3) states the issues that the party intends to present on appeal. Fed. R. App. P. 24(a)(1). An individual may be allowed to proceed *in forma pauperis* (that is, without the payment of the filing fees) if he or she declares in an affidavit that he or she "is unable to pay such fees or give security therefor." 28 U.S.C. § 1915(a)(1). Before a plaintiff is permitted to proceed *in forma pauperis* on appeal, however, the Court is obligated to ensure the appeal is being taken in "good faith." 28 U.S.C. § 1915(a)(3).

"Good faith is demonstrated by seeking appellate review of any issue that is not frivolous when judged under an objective standard." *United States v. Terry*, No. 8:97-CR-273-T-23TBM, 2016 WL 406863, at \*2, n.1 (M.D. Fla. Jan. 6, 2016), *report and recommendation adopted*, No. 8:97-CR-273-T-23TBM, 2016 WL 398160 (M.D. Fla. Feb. 2, 2016) (citing *Coppedge v. United States*, 369 U.S. 438, 445 (1962)). "An issue is frivolous if it is without arguable merit either in law or fact." *Miller v. City of Atl. Beach*, No. 3:15-CV-209-J-34PDB, 2015 WL 7731472, at \*5 (M.D. Fla. Nov. 4, 2015), *report and recommendation adopted*, No. 3:15-CV-209-J-34PDB, 2015 WL 7721278 (M.D. Fla. Nov. 30, 2015). "On the other hand, where an issue or claim is arguable, but ultimately will be unsuccessful, it should be allowed to proceed." *Williams v. Davey Tree Expert Co.*, No. 8:10-CV-2303-T-30TBM, 2011 WL 6314207, at \*2 (M.D. Fla. Nov. 30, 2011),


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<sup>1</sup> Plaintiff's inability to communicate his frustration with the litigation process has now risen to the level of implied threats. (See Doc. 137). Plaintiff's lack of civility and the multiple warnings he has received on this issue are well documented in this case. (Docs. 34, 50, 64, 73, 77, 90, 94, 98, 105, 106, 107, 112, 113, 120, 123). Plaintiff would be far better served timely addressing the factual and legal issues he seeks to pursue, as opposed to spending time writing inappropriate things in his filings.

*report and recommendation adopted*, No. 8:10-CV-2303-T-30TBM, 2011 WL 6314202 (M.D. Fla. Dec. 16, 2011) (citing *Cofield v. Alabama Pub. Serv. Comm'n*, 936 F.2d 512, 515 (11th Cir. 1991)).

Plaintiff raises numerous arguable claims here. For instance, he raises several challenges to factual and legal determinations made by the Court, along with challenging the Court's discretion to sanction him. *See, e.g.*, (Doc. 137, Ex. A.). Accordingly, given that the Court has already determined that Plaintiff is indigent and entitled to proceed *in forma pauperis*, his motion (Doc. 127) is due to be **GRANTED**. Plaintiff is entitled to proceed on appeal without paying or giving security for fees and costs. The Court's previous Report and Recommendation (Doc. 136) is **VACATED**.

**DONE and ORDERED** in Ocala, Florida on November 22, 2016.

  
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PHILIP R. LAMMENS  
United States Magistrate Judge

Copies furnished to:

Counsel of Record  
Unrepresented Parties