

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

RANDALL LAMONT ROLLE,

Plaintiff,

v.

Case No: 5:15-cv-202-Oc-30PRL

PHILIP WAYNE EDWARDS, et al.,

Defendants.

ORDER

THIS CAUSE comes before the Court upon pro se Plaintiff's Affidavit of Indigency (Doc. 5), which the Court construes as a motion for leave to proceed *in forma pauperis* on appeal. On April 20, 2015, Plaintiff initiated a civil rights action alleging constitutional violations by various individuals, including Assistant Attorney General Philip Wayne Edwards, Magistrate Judge William C. Sherrill, Jr., District Judge Stephen P. Mickle, and Circuit Judge J.L. Edmondson, relating to Plaintiff's postconviction proceedings in 2008. (Doc. 1). Following a preliminary review of Plaintiff's complaint in determining whether he should be granted *in forma pauperis* status, the Court determined that Plaintiff's complaint was frivolous because it was barred by the doctrine of res judicata and the applicable statutes of limitation and because Plaintiff's claims were without merit. Accordingly, the Court dismissed Plaintiff's complaint in its entirety.

Plaintiff has now filed a notice of appeal and seeks leave to proceed *in forma pauperis* on appeal. (Docs. 4, 5). Pursuant to Federal Rule of Appellate Procedure 24(a), a party in a district-court action seeking to appeal *in forma pauperis* must file a motion and attach an affidavit that shows the party's inability to pay or give security for fees and costs, claims an entitlement to redress, and states the issues that the party intends to present on appeal. As with a request to proceed in a district-court action *in forma pauperis*, a court considering a request to proceed on appeal *in forma pauperis* must keep in mind its mandate to dismiss a case at any time if it determines the action or appeal is frivolous or fails to state a claim on which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(i)-(iii).

An appeal is frivolous and not brought in good faith “if it is ‘without arguable merit either in law or fact.’” *Ghee v. Retailers Nat’l Bank*, 271 F. App’x 858, 859-60 (11th Cir. 2008) (per curiam) (quoting *Bilal v. Driver*, 251 F.3d 1346, 1349 (11th Cir. 2001)). In this context, “good faith” is judged by an objective standard and is shown when a party seeks appellate review of any issue not frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). Where a court certifies in writing that the appeal is not taken in good faith, a party may not appeal *in forma pauperis*. 28 U.S.C. § 1915(a)(3).

The Court previously denied Plaintiff’s request to proceed *in forma pauperis* because his complaint was frivolous. (Doc. 3). Plaintiff has failed to provide any reason why the Court’s prior order was erroneous or to establish that his claims are meritorious. Accordingly, any appeal of this matter is frivolous.

Accordingly, it is therefore **ORDERED AND ADJUDGED** that:

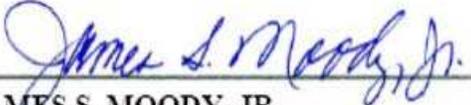
1. Plaintiff's construed motion to proceed *in forma pauperis* on appeal (Doc. 5) is DENIED.

2. The Court certifies that Plaintiff's appeal is not taken in good faith.

3. The Clerk shall notify the Eleventh Circuit Court of Appeals that the motion to proceed *in forma pauperis* on appeal is denied and that the appeal is not taken in good faith in accordance with Federal Rule of Appellate Procedure 24(a).

4. Plaintiff is directed to pay the appellate filing and docketing fees of \$505.00. Any future request to proceed *in forma pauperis* on appeal should be sent directly to the Eleventh Circuit Court of Appeals. *See* Fed. R. App. P. 24(a)(5).

DONE and **ORDERED** in Tampa, Florida, this 6th day of May, 2015.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record