

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION

ALESSA M. WILLIAMS,

Plaintiff,

v.

CASE NO. 1:07-cv-00137-MP-AK

MICHAEL J. ASTRUE,  
Commissioner of Social Security,

Defendant.

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**ORDER**

This matter is before the Court on Doc. 23, Plaintiff's motion for leave to proceed *in forma pauperis* on appeal. Under Rule 24(a)(3) of the Federal Rules of Appellate Procedure, a party who was permitted to proceed *in forma pauperis* at the district-court level may proceed *in forma pauperis* on appeal without further authorization, unless the Court certifies that the appeal is not taken in good faith. An appeal is taken in good faith if it presents "legal points arguable on their merits (and therefore not frivolous)." Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967); see also Busch v. County of Volusia, 189 F.R.D. 687, 692-93 (M.D. Fla. 1999).

In this case, Plaintiff is appealing the Court's December 17, 2008, order (Doc. 19) adopting the Magistrate's Report and Recommendation (Doc. 17) and affirming the decision of the Commissioner to deny benefits. In adopting the Report, the Court rejected Plaintiff's arguments that (1) the ALJ erred in not finding that Plaintiff met Listing 9.09 for obesity and (2) the ALJ erred in not affording greater weight to the findings of Dr. Edwards as Plaintiff's treating physician, who saw Plaintiff on a rotational basis. As explained in the Magistrate's

Report, Plaintiff's arguments are without merit. Plaintiff has failed to explain how her application meets Listing 9.09 or any other listing. As to Dr. Edwards' opinion, the reasons articulated by the ALJ constituted good cause for not adopting the limitations set forth in Dr. Edwards' functional assessment. Because Plaintiff's appeal presents no issues reasonably arguable on their merits, it is hereby

**ORDERED AND ADJUDGED:**

1. The Court certifies that Plaintiff's appeal is not taken in good faith.
2. Plaintiff's motion to proceed *in forma pauperis* on appeal, Doc. 23, is DENIED.
3. The Clerk is directed to forward an updated docket sheet and a copy of this order to the Eleventh Circuit Court of Appeals.

**DONE AND ORDERED** this 9th day of March, 2009

*s/Maurice M. Paul*

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Maurice M. Paul, Senior District Judge