

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

DONNITA BRYANT,

Plaintiff,

v.

CASE NO. 1:08-cv-00173-MP-AK

SOCIAL SECURITY ADMINISTRATION,

Defendant.

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**ORDER**

This matter is before the Court on two motions. The first is the Motion for Reconsideration regarding the Order Adopting Report and Recommendation, and subsequent Clerk's Judgment by Donnita Bryant, Doc. 31. The second is the Motion for Leave to Appeal *in forma pauperis*, Doc. 33, subsequent to the Notice of Appeal, Doc. 32.

Ms. Bryant's appeal to the United States Court of Appeals for the Eleventh Circuit divests this Court of jurisdiction over the matters at issue in the appeal, except to the extent that this Court must act in aid of the appeal. *United States v. Hitchmon*, 602 F.2d 689, 692 (5th Cir. 1979) (*en banc*). Therefore, this Court cannot rule on the Motion for Reconsideration, and must dismiss it instead.

As for the Motion for Leave to Appeal *in forma pauperis*, 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).

Here, Ms. Bryant argues in her Notice of Appeal, Doc. 32, that her son's Attention Deficit Hyperactivity Disorder ("ADHD") limits her son enough to warrant Social Security relief. She argues that because of this disability, her son is not operating at the proper academic level for children his age, and therefore deserves Social Security compensation. She further attaches medical records by way of argument that his blood pressure and asthma disable him enough to warrant relief. The Court analyzed these issues and disagreed with her position, but declines to certify that her appeal is in bad faith. Additionally, she has submitted the required affidavit to show that she is financially unable to bear the usual costs of appeal.

Accordingly,

**ORDERED AND ADJUDGED:**

1. The Motion for Reconsideration, Doc. 31, is DISMISSED.
2. The Motion for Leave to Appeal *in forma pauperis*, Doc. 33, is GRANTED.

**DONE AND ORDERED** this 3rd day of June, 2010

*s/Maurice M. Paul*  
Maurice M. Paul, Senior District Judge