

**In the United States District Court
For the Southern District of Georgia
Waycross Division**

JOSEPH TABB,

Plaintiff,

v.

HOMER BRYSON, et al.,

Defendants.

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CIVIL ACTION NO.: 5:15-cv-58

ORDER

Plaintiff has filed an interlocutory appeal of the portion of this Court's February 3, 2016, Order denying Plaintiff's Motion for a Preliminary Injunction. Dkt. No. 34. Though Plaintiff has not moved to proceed on appeal *in forma pauperis*, any such attempt on Plaintiff's part is DENIED.

An appeal cannot be taken *in forma pauperis* if the trial court certifies, either before or after the notice of appeal is filed, that the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). Good faith in this context must be judged by an objective standard. Busch v. Cty. of Volusia, 189 F.R.D. 687, 691 (M.D. Fla. 1999). A party does not proceed in good faith when it seeks to advance a frivolous claim or argument. See Coppedge v. United States, 369 U.S. 438, 445 (1962); Whitted v. Roberts, Case No. 06-CV-776-KDB, 2010 WL

2025391, at *1 (S.D. Ala. Apr. 27, 2010). A claim or argument is frivolous when it appears the factual allegations are clearly baseless or the legal theories are indisputably meritless.

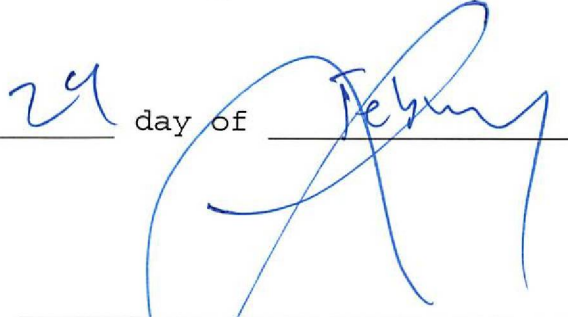
Neitzke v. Williams, 490 U.S. 319, 327 (1989); Carroll v. Gross, 984 F.2d 392, 393 (11th Cir. 1993). Or, stated another way, an *in forma pauperis* action is frivolous, and thus not brought in good faith, if it is "without arguable merit either in law or fact." Napier v. Preslicka, 314 F.3d 528, 531 (11th Cir. 2002); Bilal v. Driver, 251 F.3d 1346, 1349 (11th Cir. 2001).

"Arguable means capable of being convincingly argued." Sun v. Forrester, 939 F.2d 924, 925 (11th Cir. 1991) (internal quotations and citations omitted).

For the reasons set forth in this Court's Order denying Plaintiff's Motion for Preliminary Injunction, the claims and arguments Plaintiff seeks to raise on appeal are without arguable merit either in law or fact. Consequently, the Court hereby **DENIES** Plaintiff leave to appeal *in forma pauperis* because the appeal is not taken in good faith. 28 U.S.C.

§ 1915(a)(3).

SO ORDERED, this 29 day of February, 2016.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA