

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION**

XAVIER DANIELS,

Plaintiff,

v.

MANAGER UPTON; WARDEN ROBERT
TOOLE; and STANLEY WILLIAMS,

Defendants.

CIVIL ACTION NO.: 6:16-cv-94

ORDER

Presently before the Court are non-party Waseem Daker's ("Daker") Motions for Leave to Appeal *in Forma Pauperis*. (Docs. 54, 61.) Daker seeks to appeal this Court's Orders denying his Motion to Intervene, (doc. 43), and Motion to Reconsider that denial, (doc. 46). For the reasons set forth below, the Court **DENIES** Daker's Motions for Leave to Appeal *in Forma Pauperis*.

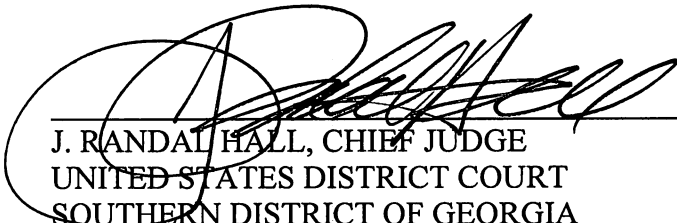
An appeal cannot be taken *in forma pauperis* if the trial court certifies, either before or after the notice of appeal is filed, that the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). Good faith in this context must be judged by an objective standard. Busch v. 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). 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 Orders dated February 17, 2017, (doc. 43), and March 27, 2017, (doc. 46), the arguments Daker seeks to raise on appeal are without arguable merit in either law or fact. Put simply, the Court sees no non-frivolous ground for appeal. Consequently, the Court hereby **DENIES** Daker’s Motions for Leave to Appeal *in Forma Pauperis* because the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3).

However, the Court **GRANTS** Daker’s Motion for Service and Copy of Court’s March 27, 2017, Order. (Doc. 52.) Accordingly, the Court **DIRECTS** the Clerk of Court to serve upon Plaintiff **and** non-party Daker a copy of this Order and the Court’s Order dated March 27, 2017, (doc. 46).

SO ORDERED, this 25th day of July, 2017.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA