

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ROBERT R. BANKS,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Defendant.

Case No. 08-cv-0063-JPG

**MEMORANDUM AND ORDER**

This matter comes before the Court on Petitioner's *Pro Se* Motions for Leave to Proceed *in Forma Pauperis* (Docs. 12 and 20).

A federal court may permit a party to proceed on appeal without full pre-payment of fees provided the party is indigent and the appeal is taken in good faith. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). A frivolous appeal cannot be made in good faith. *Lee v. Clinton*, 209 F.3d 1025, 1026-27 (7th Cir. 2000). The test for determining if an appeal is in good faith or not frivolous is whether any of the legal points are reasonably arguable on their merits. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (citing *Anders v. California*, 386 U.S. 738 (1967)); *Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000).

The Court is satisfied from Banks's affidavit that he is indigent. Furthermore, the Court does not believe that this action is frivolous or malicious. Therefore, the Court **GRANTS** the motions to proceed on appeal *in forma pauperis* without prepayment of fees and costs (Docs. 12 and 20).

**IT IS SO ORDERED.**  
**DATED: March 17, 2009**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**