

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

CHESTER O’QUINN,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 14-cv-00407-JPG-PMF
)	
CHAPMAN, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff Chester O’Quinn’s Motion (Doc. 62) to Appeal *in Forma Pauperis*. The Plaintiff does not need the Court’s permission to proceed on appeal *in forma pauperis* because the Court determined at the trial level that he was permitted to proceed *in forma pauperis* (Doc. 14). “A party who was permitted to proceed in forma pauperis in the district-court action . . . may proceed on appeal in forma pauperis without further authorization” unless the district court certifies or a statute provides otherwise. Fed. R. App. P. 24(a)(3).

However, a court can deny a qualified plaintiff leave to file *in forma pauperis* if – before or after the notice of appeal is filed- the court certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed *in forma pauperis* and states in writing its reasons. Fed. R. App. P. 24(a)(3)(A). When assessing a petition to proceed *in forma pauperis*, a district court should inquire into the merits of the petitioner’s claims, and if the court finds them to be frivolous, it should deny leave to proceed *in forma pauperis*. *Lucien v. Roegner*, 682 F.2d 625, 626 (7th Cir. 1982).

In this matter, Plaintiff was granted *in forma pauperis* (Doc. 14) in the district-court action. The majority of the defendants were dismissed on the merits review pursuant to 28 U.S.C. §1915A (Doc. 13) and the matter proceeded against the remaining defendants, Chapman and Spiller (Spiller in his official capacity based solely on Plaintiff's request for injunctive relief.) Defendant Chapman was granted summary judgment based on Plaintiff's failure to exhaust administrative remedies (Doc. 54) and as the sole remaining individual defendant was dismissed, the matter was dismissed without prejudice.

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). In this matter, there does not appear to be any legal points that are reasonably arguable on their merits.

Therefore, the Court **CERTIFIES** that this appeal is not taken in good faith and accordingly **DENIES** the Plaintiff's Motion for Leave to proceed on appeal *in forma pauperis* (Doc. 62). The Clerk of Court is **DIRECTED** to send a copy of this order to the United States Court of Appeals for the Seventh Circuit.

IT IS SO ORDERED.

DATED: 7/29/2015

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