

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

TIMOTHY WILSON, JR.,

Plaintiff,

vs.

ARTHUR STANLEY,

Defendant.

Case No. 15-cv-1315-SMY-SCW

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff's Motion for Leave to Appeal in forma pauperis (Doc. 43). On January 26, 2016, the Court remanded this case to state court in St. Clair County, Illinois (Doc. 26). Plaintiff filed his Notice of Appeal on April 27, 2016 (Doc. 36).

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)(1) & (3); Fed. R. App. P. 24(a)(3)(A). 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 and 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 has no doubt that Plaintiff is indigent. However, the appeal is frivolous. Plaintiff argues that neither this Court nor the Seventh Circuit addressed his Motion for Sanctions (Doc. 11). However, this Court had no jurisdiction to do so because the case was improperly removed from state court. An order remanding a case to state court based on a lack of subject-matter jurisdiction or defect in the removal procedure is not reviewable on appeal.

See *Powerex Corp. v. Reliant Entergy Services, Inc.*, 551 U.S. 224 (2007). Accordingly, Plaintiff's Motion for Leave to Appeal *in forma pauperis* is **DENIED**.

IT IS SO ORDERED.

DATE: June 13, 2016

s/ Staci M. Yandle
STACI M. YANDLE
DISTRICT JUDGE