

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

BLAKE ADAMS

CIVIL ACTION

VERSUS

NO. 15-6207

KEITH COOLEY, WARDEN

SECTION "R" (5)

**ORDER**

On June 23, 2017, the Court dismissed with prejudice Blake Adams's petition for *habeas corpus* and denied a certificate of appealability.<sup>1</sup> The Court later denied Adams's motion to alter or amend judgment.<sup>2</sup> Adams now moves the Court to permit him to proceed *in forma pauperis* on appeal.<sup>3</sup> Because Adams's arguments lack good faith, the Court denies the motion.

A claimant may proceed with an appeal *in forma pauperis* if he meets three requirements. First, the claimant must submit "an affidavit that includes a statement . . . that [he] is unable to pay such fees or give security therefor." 28 U.S.C. § 1915(a)(1). Based on this information, the district court must determine whether the costs of appeal would cause an undue financial hardship. *See Prows v. Kastner*, 842 F.2d 138, 140 (5th Cir. 1998).

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<sup>1</sup> R. Doc. 24; R. Doc. 25.

<sup>2</sup> R. Doc. 33.

<sup>3</sup> R. Doc. 36.

Second, the claimant must provide the court with an affidavit that “states the issues that the party intends to present on appeal.” Fed. R. App. P. 24(a)(1)(C); *accord* 28 U.S.C. § 1915(a)(1) (“Such affidavit shall state the nature of the . . . appeal and affiant’s belief that the person is entitled to redress.”). Third, the claimant’s appeal must be “taken in good faith.” 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(4)(B). “Good faith is demonstrated when a party seeks appellate review of any issue ‘not frivolous.’” *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (citing *Coppedge v. United States*, 369 U.S. 438, 445 (1962)). Good faith “does not require that probable success be shown,” but rather “is limited to whether the appeal involves legal points arguable on their merits (and therefore not frivolous).” *United States v. Arroyo-Jurado*, 477 F. App’x 150, 151 (5th Cir. 2012). “A complaint is frivolous if it lacks an arguable basis either in law or in fact.” *Kingery v. Hale*, 73 F. App’x 755, 755 (5th Cir. 2003).

Adams’s motion indicates that his current prison drawing account balance is \$25.60, his prison savings account balance is \$59.04, and he has no other assets.<sup>4</sup> Although Adams’s motion suggests an inability to pay fees related to his appeal, the motion must be denied because the arguments Adams intends to raise on appeal do not have an arguable basis either in law

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<sup>4</sup> R. Doc. 36.

or in fact and are therefore frivolous. In his notice of appeal, Adams argues that his conviction was contrary to clearly established constitutional law, and that the state courts unreasonably determined the facts of his case because he was convicted based on perjured testimony and fabricated evidence.<sup>5</sup> For the reasons explained in the Court's orders dismissing Adams's *habeas corpus* petition and denying his motion to alter or amend judgment, Adams has made no showing of actual innocence and his other arguments are without merit.<sup>6</sup>

Accordingly, Adams's motion for leave to appeal *in forma pauperis* is DENIED.

New Orleans, Louisiana, this 11th day of December, 2017.

  
SARAH S. VANCE  
UNITED STATES DISTRICT JUDGE

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<sup>5</sup> R. Doc. 34.

<sup>6</sup> R. Doc. 24; R. Doc. 33.