

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BARRY H. SPENCER, JR., Petitioner,	)	
	)	
v.	)	Civil Action No. 11-10591-NMG
	)	
BARACK H. OBAMA, et al., Respondents.	)	App. No. 11-1695
	)	

MEMORANDUM AND ORDER

GORTON, J.

Before the Court is the motion of petitioner/appellant Barry H. Spencer, Jr. for leave to appeal in forma pauperis.

Under the federal in forma pauperis statute, “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). Regardless of any subjective good faith on the part of the appellant, “good faith” within the meaning of 28 U.S.C. § 1915(a)(3) is only demonstrated when a litigant seeks “appellate review of any issue not frivolous.” Coppedge v. United States, 369 U.S. 438, 445 (1962). An issue is frivolous if “no reasonable person could suppose [it] to have any merit.” Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000).

Here, Spencer’s appeal of the dismissal of his action is not taken in objective good faith. As the Court explained in its April 27, 2011 memorandum and order denying the five petitions that Spencer had filed, his filings were confusing and did not

set forth a cognizable basis for habeas release. For example, he repeatedly referred to the "Admiralty Jurisdiction" of this Court. He sought to remove state criminal proceedings to this Court. Spencer asked for the arrest of thirty-two "juristic persons or vessels." In the absence of any subjective good faith on the part of Spencer, the Court cannot discern any non-frivolous issue for appellate review.

Accordingly, the Court denies the motion (# 18) for leave to appeal in forma pauperis.<sup>1</sup> The Clerk shall transmit a copy of this Order to the United States Court of Appeals for the First Circuit.

**So ordered.**

/s/ Nathaniel M. Gorton  
Nathaniel M. Gorton  
United States District Judge

Dated: 9/27/11

---

<sup>1</sup>Under the Federal Rules of Civil Procedure, Spencer may again seek leave to appeal in forma pauperis by filing the appropriate motion with the United States Court of Appeals for the First Circuit. See Fed. R. App. P. 24(a)(5) ("A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of the notice prescribed in Rule 24(a)(4). The motion must include a copy of the affidavit filed in the district court and the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party must include the affidavit prescribed by Rule 24(a)(1).").