

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MOSTAFA MASOMI,)
Plaintiff,)
v.)
MEHRANDOKHT MADADI, et al.,)
Defendants.)
Civil Action No.
18-10058-FDS

ORDER

SAYLOR, J.

Plaintiff Mostafa Masomi initiated this action seeking redress for the alleged violation of his constitutional rights during the course of his divorce proceedings. (Docket No. 1). The action was dismissed for lack of subject-matter jurisdiction (Docket No. 5) and Masomi filed a notice of appeal. (Docket No. 7). Now before the Court is Masomi's motion for leave to appeal in forma pauperis. (Docket No. 8).

A litigant who wishes to proceed in forma pauperis on appeal must comply with Rule 24 of the Federal Rules of Appellate Procedure and 28 U.S.C. § 1915. See 28 U.S.C. § 1915; Fed. R. App. P. 24. Masomi's motion for leave to appeal in forma pauperis will be denied because he failed to make an adequate showing that he is without sufficient funds to pay the filing fee for this appeal. He is employed, has equity in his home and his monthly expenses do not exceed his income.

The motion will also be denied because the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3) provides that “[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). “Good faith” for purposes of 28 U.S.C. § 1915(a)(3) does not mean “good faith from [the petitioner's] subjective point of view.” *Coppedge v. United States*, 369 U.S. 438, 444 (1962). Instead, ““good faith’ in this context must be judged by an objective standard [A] defendant’s good faith in this type of case [is] demonstrated when [the petitioner] seeks appellate review of any issue not frivolous.” *Coppedge*, 369 U.S. at 445. An appeal is deemed frivolous when it is based on an “indisputably meritless legal theory or factual allegations that are clearly baseless.” *Forte v. Sullivan*, 935 F.2d 1, 3 (1st Cir. 1991) (citing *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989)). Thus, because it is clear that this court lacks subject-matter jurisdiction, the appeal fails to raise any legal points that are arguable on the merits.

Accordingly, for the above reasons, the motion (Docket No. 9) for leave to appeal in forma pauperis is DENIED. This ruling does not preclude Masomi from filing a motion to proceed in forma pauperis in the Court of Appeals, provided he does so pursuant to Fed. R. App. P. 24(a)(5).

So Ordered.

Dated: April 11, 2018

/s/ F. Dennis Saylor
F. Dennis Saylor, IV
United States District Judge