

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                            |   |                   |
|----------------------------|---|-------------------|
| SAMAR AKINS,               | ) | 4:14CV3235        |
|                            | ) |                   |
| Plaintiff,                 | ) |                   |
|                            | ) |                   |
| v.                         | ) | <b>MEMORANDUM</b> |
|                            | ) | <b>AND ORDER</b>  |
| BARB ALBERS, LYNN QUIZNER, | ) |                   |
| ROD CONFER, and NEBRASKA   | ) |                   |
| EQUAL EMPLOYEE             | ) |                   |
| OPPORTUNITY COMMISSION,    | ) |                   |
|                            | ) |                   |
| Defendants.                | ) |                   |

This matter is before the court on Plaintiff Samar Akins’s (“Plaintiff”) Notice of Appeal (Filing No. [8](#)). The notice was not accompanied by the appellate filing fee. The court finds that pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), Plaintiff may not take this appeal in forma pauperis.

A litigant seeking to appeal a judgment must either pay the required filing fees, *see* [Fed. R. App. P. 3\(e\)](#), or proceed in forma pauperis pursuant to § 1915(a). Section 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.” An appellant demonstrates good faith by seeking appellate review of any issue that is not frivolous. [Coppedge v. United States](#), 369 U.S. 438, 445 (1962); [Ellis v. United States](#), 356 U.S. 674, 674 (1958).

An appeal is frivolous where none of the legal points are arguable on their merits—when the result is obvious or the appellant’s argument is wholly without merit. *See* [Neitzke v. Williams](#), 490 U.S. 319, 325 (1989); [Misischia v. St. John’s Mercy Health Sys.](#), 457 F.3d 800, 806 (8th Cir. 2006). And while such a finding should be made only in extreme cases, it is proper when a party attempts to appeal

from an order that is clearly not appealable. See [Cohen v. Curtis Publ'g Co., 333 F.2d 974, 978-79 \(8th Cir. 1964\)](#).

The order from which Plaintiff is attempting to appeal—the court’s order on initial review (Filing No. [7](#)) dated April 15, 2015—is clearly not appealable. The court determined Plaintiff’s factually unsupported and conclusory allegations set forth in his Complaint were insufficient to state a claim for relief. The court ordered Plaintiff to file an amended complaint. The order is not appealable because it neither qualifies as a “final decision[.]” capable of appeal under [28 U.S.C. § 1291](#) nor comes within the narrow class of appealable interlocutory orders under [§ 1292\(a\)\(1\)](#). Because Plaintiff is attempting to appeal from an order that is not appealable, the court certifies that the appeal is not taken in good faith.

IT IS THEREFORE ORDERED that:

1. Plaintiff may not proceed on appeal in forma pauperis.
2. The clerk’s office is directed to provide a copy of this Memorandum and Order to the Eighth Circuit Court of Appeals.

DATED this 29th day of April, 2015.

BY THE COURT:

*s/ John M. Gerrard*  
United States District Judge

---

\*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.