

FILED
IN CLERK'S OFFICE
U S DISTRICT COURT E D N Y

★ APR 24 2014 ★

LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
PAMELA ROLLE,

Plaintiff,

-against-

ORDER
11-CV-3855 (SJF)(AKT)

EDUCATIONAL BUS TRANSPORTATION, INC.,

Defendant.

-----X
FEUERSTEIN, District Judge:

Pending before the Court is an application by *pro se* plaintiff Pamela Rolle (“plaintiff”), who was permitted to proceed *in forma pauperis* in this Court, for leave to proceed *in forma pauperis* on her appeal of the final judgment entered against her in this action on April 1, 2014, upon an order of this Court, dated March 31, 2014, *inter alia*, accepting the Report and Recommendation of the Honorable A. Kathleen Tomlinson, United States Magistrate Judge, dated February 11, 2014, recommending that the motion of defendant Educational Bus Transportation, Inc. (“defendant”) seeking dismissal of the amended complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim for relief be granted and dismissing the amended complaint in its entirety with prejudice pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim for relief. For the reasons stated herein, plaintiff’s application is denied.

Rule 24(a)(3) of the Federal Rules of Appellate Procedure provides, in relevant part:

“A party who was permitted to proceed in forma pauperis in the district-court action, * * * may proceed on appeal in forma pauperis without further authorization, unless: (A) the district court— before or after the notice of appeal is filed— certifies that the appeal is not taken in good faith * * * and states in writing its reasons for the certification or finding * * *.”

In the March 31, 2014 order, the Court certified “pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from th[at] Order would not be taken in good faith and therefore in forma pauperis status is

denied for the purpose of any appeal” and cited to Coppedge v. United States, 369 U.S. 438, 444–45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962). In Coppedge, the Supreme Court held that “‘good faith’ in th[e] context [of the *in forma pauperis* statute] must be judged by an objective standard[] * * * [and is] demonstrated when [a party] seeks appellate review of any issue not frivolous.” Id. at 445, 82 S. Ct. 917. Since plaintiff has not identified the issue she intends to present on the appeal, and the Court is unable to discern any issue plaintiff could present on appeal that would not be frivolous, the appeal from the final judgment entered upon the March 31, 2014 order is not taken in good faith. Accordingly, plaintiff’s motion for leave to proceed on appeal *in forma pauperis* is denied.

III. Conclusion

For the reasons set forth herein, plaintiff’s motion for leave to proceed on appeal *in forma pauperis* is denied. Pursuant to Rule 24(a)(4) of the Federal Rules of Appellate Procedure, the Clerk of the Court shall serve notice of entry of this order upon both parties and “immediately notify” the United States Court of Appeals for the Second Circuit of this decision.

Pursuant to Rule 24(a)(5) of the Federal Rules of Appellate Procedure, plaintiff may file a motion for leave to proceed on appeal *in forma pauperis* in the United States Court of Appeals for the Second Circuit **within thirty (30) days after the Clerk of this Court serves notice of entry of this order upon her.**

SO ORDERED.

s/ Sandra J. Feuerstein

SANDRA J. FEUERSTEIN
United States District Judge

Dated: April 24, 2014
Central Islip, New York