

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

KENNETH MARSHALL,

Petitioner,

v.

**WARDEN, PICKAWAY
CORRECTIONAL INSTITUTION,**

Respondent.

CASE NO. 2:14-CV-812

JUDGE GREGORY L. FROST

Magistrate Judge Elizabeth P. Deavers

ORDER

On July 31, 2015, the Court denied Petitioner's request for a certificate of appealability. (ECF No. 42.) This matter is before the Court on Petitioner's request to proceed *in forma pauperis* on appeal. (ECF No. 49.)

Pursuant to 28 U.S.C. § 1915(a) (3), an appeal may not be taken *in forma pauperis* if the appeal is not taken in good faith. Federal Rule of Appellate Procedure 24(a)(3)(A) provides:

A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, 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[.]

Id. “The good faith standard is an objective one.” *Ervin v. Hammond*, No. 13-2136-STA-dkv, 2013 WL 1103774, at *3 (W.D. Tenn. Mar. 15, 2013) (citing *Coppedge v. United States*, 369 U.S. 438, 445 (1962)). In order to meet the good faith standard, the appeal cannot be frivolous. *Hence v. Smith*, 49 F. Supp. 2d 547, 549 (E.D. Mich. 1999) (citing *Coppedge*, at 445-46).

Additionally, as another judicial officer has recognized,

“[t]he standard governing the issuance of a certificate of appealability is more demanding than the standard for determining whether an appeal is in good faith.” *U.S. v. Cahill–Masching*, 2002 WL 15701, * 3 (N.D.Ill. Jan.4, 2002). “[T]o determine that an appeal is in good faith, a court need only find that a reasonable person could suppose that the appeal has some merit.” *Walker v. O’Brien*, 216 F.3d 626, 631 (7th Cir. 2000).

Penny v. Booker, No. 05–70147, 2006 WL 2008523, at *1 (E.D. Mich. July 17, 2006).

In light of the applicable standard, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that the appeal is not in good faith. This Court therefore **DENIES** Petitioner’s request for leave to appeal *in forma pauperis*. (ECF No. 49.)

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE