

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

Teddy Glen Bostic Senior, :
 Plaintiff, :
 v. :
Jeanette Arlene Davis, et al., :
 Defendants. :

Case No. 2:15-cv-3029
Magistrate Judge Kemp

ORDER

This case is before the Court to consider two motions. The first is a motion to vacate the mediation conference, filed by the Defendants. After considering the motion and Plaintiff's response, the Court denies the motion (Doc. 40). The parties are directed to participate in the mediation in good faith.

The second pending motion is Plaintiff's motion for leave to proceed on appeal *in forma pauperis*. Plaintiff has been permitted to proceed that way in this case, so under Fed.R.App.P. 24(a)(3), he may proceed *in forma pauperis* on appeal unless the Court certifies that the appeal is not taken in good faith - in other words, that it is groundless.

Here, Mr. Bostic is appealing the Court's order of May 8, 2017, dismissing his claims against Defendant Davis. That order is not immediately appealable. 28 U.S.C. §1291 provides for appellate jurisdiction to review "final decisions" of the district courts. An order dismissing fewer than all of the claims or parties is not a final order but an interlocutory one, meaning that it is subject to revision by the District Court at any time before final judgment is entered in the case. See, e.g., Consolidation Coal Co. v. United States Dept. of Interior, 43 F.Supp.2d 857, 862-63 (S.D. Ohio 1999). The Court of Appeals

has jurisdiction to review such orders under 28 U.S.C. §1292, but only if those orders address certain types of relief, like injunctive relief, or, under §1292(b), if the District Court certifies the order for immediate appeal. Id. That did not occur here. Consequently, the order from which Mr. Bostic has appealed is not immediately appealable, and his appeal is likely to be dismissed for lack of appellate jurisdiction. That being so, the Court certifies that the appeal is not taken in good faith, and it denies the motion for leave to appeal *in forma pauperis* (Doc. 43).

/s/ Terence P. Kemp
United States Magistrate Judge