

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

LLOYD TRACKWELL,

Plaintiff,

v.

No. 3:16-cv-00496-HZ

OPINION & ORDER

JARY HOMAN, Clerk of the Circuit
Court of Wallowa County, Oregon,

Defendant.

Lloyd Trackwell
4830 Woodhaven Dr.
Lincoln, NE 68516

Plaintiff Pro Se

HERNÁNDEZ, District Judge:

Pro se Plaintiff Lloyd Trackwell moves to proceed in forma pauperis (IFP) in his appeal of this action. Plaintiff's motion is denied.

1- OPINION & ORDER

STANDARDS

Under Rule 24(a) of the Federal Rules of Appellate Procedure:

A party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that: (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal.

Under subsection (a)(3)(A) and 28 U.S.C. § 1915, a party may not proceed IFP on appeal if the district court certifies that the appeal is not taken in good faith. An appeal not taken in good faith is one that is frivolous, meaning the result is obvious or the arguments are wholly without merit. See Matter of Hawaii Corp., 796 F.2d 1139, 1144 (9th Cir. 1986) (citations omitted).

DISCUSSION

As an initial matter, the Court notes that Plaintiff fails to satisfy any of the requirements of Rule 24(a). Most importantly, he does not state the issues on which he intends to appeal. Nevertheless, because the Court determines that the appeal of any of the issues presented in the underlying case would be frivolous, the Court considers Plaintiff's motion and concludes that it should be denied.

On April 14, 2016, this Court dismissed Plaintiff's complaint with prejudice, explaining that it was unable to award Plaintiff the relief he requests—a declaration that Plaintiff met the requirements for filing his petition for post-conviction relief in the Circuit Court of Wallowa County and an order that the Circuit Court accept his petition without a filing fee. Opinion & Order, April 14, 2016, ECF 6. Id. The Court found that Defendant was immune from Plaintiff's action, the Court did not have the authority to grant Plaintiff the requested relief, and the Court would abstain from interfering with pending state judicial proceedings. Id.

Plaintiff filed a motion for reconsideration of this Court's opinion on May 13, 2016, and an amended motion for reconsideration on June 7, 2016. The Court concluded that Plaintiff's mere disagreement with this Court's prior conclusions was an insufficient reason for the Court to reconsider its decision to dismiss Plaintiff's complaint.

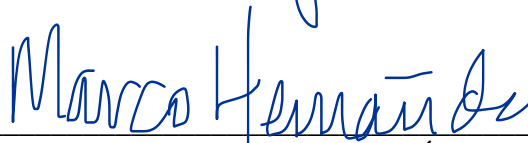
Plaintiff's current motion for leave to proceed IFP on appeal offers no argument for why the Court should reconsider its prior conclusion that Plaintiff's case is frivolous. The Court has already found that Plaintiff's claims are meritless and there is no indication that Plaintiff's appeal would produce a different result. Accordingly, any appeal of this Court's dismissal would not be taken in good faith.

CONCLUSION

Plaintiff's motion for leave to appeal in forma pauperis [15] is DENIED.

IT IS SO ORDERED.

Dated this 18 day of July, 2016.



MARCO A. HERNÁNDEZ
United States District Judge