IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EUGENIA M. WOODARD,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. H-13-0337
	§	
TEXAS SOUTHERN UNIVERSITY,	§	
	§	
Defendant.	§	

ORDER

Eugenia Woodard moved for leave to proceed *in forma pauperis* on appeal. (Docket Entry No. 26). Title 28 U.S.C. § 1915(a)(3) states that leave to proceed on appeal *in forma pauperis* must be denied if the district court determines that the appeal is not taken in "good faith," that is, if the appeal fails to present a nonfrivolous issue. *Coppedge v. United States*, 369 U.S. 438, 445 (1962); *United States v. Benitez*, 405 F. App'x 930, 930 (5th Cir. 2010) (per curiam). An action is frivolous when there is no arguable legal or factual basis for the claim. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *United States v. Pineda–Arrellano*, 492 F.3d 624, 630 (5th Cir. 2007). Similarly, under FED. R. APP. P. 24(a)(3)(A), the appellant is ineligible for *in forma pauperis* status if the court certifies that the appeal is not taken in "good faith." If the district court finds no "legal points arguable on their merits," then an appeal is not taken in "good faith." *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983); *see also Wai Leung Chu v. United States*, 353 F. App'x 952, 953 (5th Cir. 2009) (per curiam); *Groden v. Kizzia*, 354 F. App'x 36, 36 (5th Cir. 2009) (per curiam); *Walton v. Valdez*, 340 F. App'x 954, 955 (5th Cir. 2009) (per curiam).

For the reasons stated in this court's Order dismissing Woodard's suit, (Docket Entry No. 17), this court certifies that Woodard's appeal is not taken in good faith. *See* 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24(a)(3)(A); *see also Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997) (explaining that to comply with Rule 24 and to inform the Court of Appeals of the reasons for its certification, a district court may incorporate by reference its order dismissing an appellant's claims).

Although this court has certified that the appeal is not taken in good faith under 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3)(A), Woodard may challenge this finding under *Baugh v. Taylor* by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, United States Court of Appeals for the Fifth Circuit, within 30 days of this order. *Baugh*, 117 F.3d at 202.

Woodard's motion for leave to proceed *in forma pauperis* on appeal is denied.

SIGNED on July 11, 2013, at Houston, Texas.

Lee H. Rosenthal
United States District Judge