

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

CASE No. 8:02-cr-424-T-27MAP

KABIL ANTON DJENASEVIC,
_____ /

REPORT AND RECOMMENDATION

Defendant is serving a lengthy sentence for firearm and drug offenses. Eleven years after pleading guilty, he filed a forty-four page motion to suppress (doc. 482). The District Judge denied the motion (doc. 486). He now moves to appeal that denial *in forma pauperis* (doc. 492). His appeal, however, is objectively frivolous.¹ He waived any suppression issues by his guilty plea. *United States v. Charles*, 757 F.3d 1222, 1227 n. 4 (11th Cir. 2014). Therefore, I recommend the motion (doc. 492) be denied.

IT IS SO REPORTED at Tampa, Florida on April 2, 2018.



MARK A. PIZZO
UNITED STATES MAGISTRATE JUDGE

¹ Plaintiff, despite his indigent status, has no absolute right to appeal *in forma pauperis*. To the contrary, his ability to appeal without prepayment of fees and costs is conditioned by Fed. R. App. P. 24(a)(3), which provides that “[a] party . . . 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.*; see also *Mellen v. State of Fla.*, No. 3:13-cv-1233-J-34PDB, 2014 WL 5093885, at *12 (M.D. Fla. Oct. 9, 2014). The court must state in writing its reasons for the certification. *Id.* A party demonstrates good faith by seeking appellate review of an issue that is not objectively frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962).

NOTICE TO PARTIES

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1.