

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

IN RE PETITION OF
MARZUQ AL-HAKIM

Case No. 8:18-mc-106-T-30AAS

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REPORT AND RECOMMENDATION

Marzuq Al-Hakim moves “to waive fees on appeal/fraud on court.” (Doc. 15).

Proceeding *in forma pauperis* in federal court is permitted by 28 U.S.C. Section 1915, which authorizes any court of the United States to allow indigent persons to prosecute, defend, or appeal suits without prepayment of costs. *See Coppedge v. United States*, 369 U.S. 438, 441 (1962) (discussing Section 1915). However, an appeal may not be taken *in forma pauperis* if the trial court certifies that the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3). Good faith requires that the appeal present a nonfrivolous question for review. *Cruz v. Hauck*, 404 U.S. 59, 62 (1971). An appeal is frivolous if the plaintiff has little or no chance of success. *Carroll v. Gross*, 984 F.2d 392, 393 (11th Cir. 1993). An appeal is also frivolous when it is “without arguable merit either in law or fact.” *Bilal v. Driver*, 251 F.3d 1346, 1349 (11th Cir. 2001).

Mr. Al-Hakim’s two-page appeal and motion to appeal *in forma pauperis* fail to establish the existence of a reasoned, nonfrivolous argument raised on appeal. In

his appeal, Mr. Al-Hakim asserts “fraud on the court” and cites a former Fifth Circuit case. But Mr. Al-Hakim never explains what issue constitutes “fraud on the court.”

Assuming Mr. Al-Hakim wishes to appeal the February 11th and March 25th orders, which denied his petitions to perpetuate testimony, his appeal is frivolous. The February 11th order denied his petition and explained how he failed to satisfy the requirements to perpetuate testimony under Federal Rule of Civil Procedure 27. (Doc. 4). After receiving an opportunity to amend his petition, Mr. Al-Hakim still failed to satisfy Rule 27’s requirements. So, the March 25th order denied his second petition. (Doc. 12).

In his appeal, Mr. Al-Hakim fails to explain how the February 11th and March 25th order erred in concluding he failed to satisfy Rule 27. As a result, Mr. Al-Hakim’s appeal has no reasoned, nonfrivolous arguments.

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Mr. Al-Hakim’s appeal is not taken in good faith because he fails to establish any nonfrivolous argument. Therefore, it is **RECOMMENDED** that Mr. Al-Hakim’s request to proceed *in forma pauperis* on appeal (Doc. 15) be **DENIED**.

ENTERED in Tampa, Florida on April 23, 2019.



AMANDA ARNOLD SANSONE
United States Magistrate Judge

NOTICE TO PARTIES

Failure to file written objections to the proposed findings and recommendations contained in this report within fourteen days from the date of this service bars an aggrieved party from attacking the factual findings on appeal. 28 U.S.C. § 636(b)(1).

cc: Marzuq Al-Hakim