

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

RUBIN LEONARD,

Plaintiff,

v.

Case No. 8:18-cv-2961-T-02AAS

POLK COUNTY SHERIFF'S DEP'T,

Defendant.

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REPORT AND RECOMMENDATION

Rubin Leonard moves for permission to appeal *in forma pauperis*. (Doc. 12).

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. Leonard's motion to appeal *in forma pauperis* fails to establish the existence of a reasoned, nonfrivolous argument raised on appeal. Mr. Leonard seeks to appeal the court's order denying Ms. Leonard's request to proceed *in forma pauperis* and dismissing his complaint. (Doc. 9). There, the court adopted the undersigned's report and recommendation and concluded Mr. Leonard's claims are barred by the applicable statute of limitations. (*Id.* at p. 2).

In his appeal, Mr. Leonard fails to explain how the court erred in concluding his claims were time barred. Thus, Mr. Leonard's appeal has no reasoned, nonfrivolous arguments.

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Mr. Leonard's appeal is not taken in good faith because he fails to establish any nonfrivolous argument. Therefore, it is **RECOMMENDED** that Mr. Leonard's request to proceed *in forma pauperis* on appeal (Doc. 12) be **DENIED**.

ENTERED in Tampa, Florida on June 4, 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: Pro se Plaintiff