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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

COOK COUNTY STATE'S ATTORNEY)

ex rel. RICHARD A. DEVINE, )

Plaintiff, )

vs. )

No. 07 C 1393

APRIL TYLER, )

Defendant. )


MEMORANDUM OPINION AND ORDER

Defendant April Tyler files this motion for leave to appeal *in forma pauperis*. Pursuant to 28 U.S.C. § 1915(a) we may authorize defendant to proceed *in forma pauperis* if she demonstrates an inability to pay the required costs and fees. Defendant has so demonstrated. She is currently unemployed and has been so since 2000. Furthermore, she receives no public assistance or social security benefits.

However, our inquiry does not end with the finding of indigence. As part of the review of a petition to proceed *in forma pauperis* on appeal, we must determine whether the appeal is taken in good faith. 28 U.S.C. § 1915(a)(3); Fed.R.App.Pro. 24(3)(A). Good faith is an objective concept, one synonymous with "frivolous." Lee v. Clinton, 209 F.3d 1025, 1026 (7th Cir. 2000). We find that defendant's appeal is not in good faith. As we noted in our order dismissing her petition for removal, and again in our order denying reconsideration of that decision, defendant cannot remove her criminal contempt case to this court even if she believes she is being prosecuted on the basis of her race. The conduct in which defendant is alleged to have engaged is not a "right under a law providing for equal civil rights" (Georgia v. Rachel,

384 U.S. 780, 793 (1966)) – defendant is alleged to have falsified a court order. Under no circumstances can defendant’s alleged conduct be characterized as the exercising of a right conferred by the Constitution, nor does any federal law confer immunity from prosecution for such conduct. City of Greenwood v. Peacock, 384 U.S. 808, 826 (1966); Johnson v. Mississippi, 421 U.S. 213, 222 (1975). The law is clear. Therefore, we certify in writing that defendant’s appeal is not taken in good faith and she thus cannot proceed on appeal *in forma pauperis*. She may, of course, now ask the Court of Appeals for leave to appeal, per Fed.R.App.Pro. 24(a)(5).

O.B. 26, 2007.

  
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JAMES B. MORAN  
Senior Judge, U. S. District Court