

20-6677

ORIGINAL
Supreme Court, U.S.
FILED

JUN 29 2020

OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA

V. Plaintiff/Appellee

WILLIAM HAROLD WRIGHT, JR.

Defendant/Appellant

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT MANDAMUS

WILLIAM HAROLD WRIGHT, JR.

United State Penitentiary
3901 Klein Blvd

LOMOPOC CA, 93436

Pro-se/Litigant

QUESTION PRESENTED

DID THE COURT ERRED DENYING WRIGHT'S
MOTION TO PROCEED IN FORMA PAUPERIS?

LIST OF PARTIES

Unknown

Because the appeals court has not issue an order.

RELATED CASES

United States V. Wright, NO. 18-12678, U.S.
Court of Appeals for the Eleventh Circuit.
Judgment entered Sept 2, 2020.

United States V. Wright, NO. 19-14088, U.S.
Court of Appeals for the Eleventh Circuit.
Judgment entered

Amended

United States V. William Wright, Jr.

No. 19-12493

**Certificate of Interested Persons
and Corporate Disclosure Statement**

Appellant William Wright, Jr. files this Certificate of Interested Person Corporate Disclosure Statement, listing the parties and entities interested in this appeal, as require.

Kevin T. Beck, Esq.

Bently, A Lee, 111 former United States Attorney

Thomas J. Butler, Esq.

Candela Anthony, M., Esq.

Charlie Dustin Connally, Esq.

Gershaw, Holly L., Assistant State Attorney

David Chirtopher Hardy, Esq.

Lopez, Maria Chapa, United States Attorney

U.S. Magistrate Judge Mark A. Pizzo

James C. Preston, AUSA

Rhodes, David P., Assistant United States Attorney,
Chief, Appellate Division

Sansone, Hon, Amanda Arnold, United States Magistrate Judge

United States of America- Plaintiff/Appellee

U.s. Dist. Judge James D. Whittemore

William Wright, Jr.

In addition to the persons and entities identified in the Certificate of Interested Persons and Corporate Disclosure Statement in William Wright, Jr.'s, principle brief, the following person have an interest in the outcome of this case:

U.S. Magistrate Judge Flynn P. Sean

STATEMENT REGARDING ORAL ARGUMENT

Appellant does not request oral argument.

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Motion for in forma pauperis.

APPENDIX B The District Court dismiss in forma
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APPENDIX F E.g., Order granting appointment of
Counsel.

TABLE OF CITATION

CASES:

COPPEDGE V. UNITED STATES, 369 U.S. 438, 445,
82 S.Ct. 917, 81 Ed.2d 21 (1962). 6, 7

BUSCH V. COUNTY OF VOLUSIA, 6, 7, 4

COFIELD V. ALABAMA PUB SERV COMM'n, . . .
936, F.2d 512, 515 (11th Cir. 1991). 6

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CARROLL V. GROSS, 984, F.2d 392, 393 (11th Cir. 1993). 7

NAPIER V. PRESICKA, 314, F.3d 528, 531,
(11th Cir. 2001). 7

BILAL V. DRIVER, 251 F.3d 1346, 1349 (11th Cir. 2001). 7

SUN V. FORRESTER, 939 F.2d 924, 925 (11th Cir. 1991). 7

STATUTE

28 U.S.C. § 1254(1)

1

21 U.S.C. § 846

2

21 U.S.C. § 846(b)(1)(A)

2

18 U.S.C. § 2

X

28 U.S.C. § 1915(a)(3)

1

Addition Refer:

Fed. R. Crim. P. 16(e)

4

Fed. R. Crim. P. 24(a)(3)

1

OPINION BELOW

Unknown

Because Appeal Court has not issue and order.

JURISDICTION

The date on which the United States Court of Appeals decided my case was November 22, 2019.

The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

And appeal may not be taken in forma pauperis if the trial Court certifies, either before or after the notice of appeal is filed, that the appeal is not taken in good faith, 28 U.S.C. §1915(a)(3); Fed. R. C. P. 24(a)(3). A party demonstrates good faith by seeking appellate review of any issue that is not frivolous when judged under an objective standard.

Coppedge v. United States is binding and controlling authority in all the courts. Which states, "Unless the issue raised by an indigent seeking leave to appeal in forma pauperis are so frivolous that the appeal would be dismissed in the case of a non-indigent litigant under Rule 39(a) of the Federal Rules of Criminal Procedure, the request of an indigent for leave to appeal in forma pauperis must be allowed, in order to assure equality of consideration for all litigants."

STATEMENT OF CASE

On October 4, 2016, a Federal Grand Jury in the Middle District of Florida Charge William Wright, JR. ("Wright") With Conspiring to distribute a Kilogram or more of heroin in violation of 21 U.S.C. §§ 846 and 841(b)(1)(A), as well a six (6) Substantive Count alleging possession of heroin with intent to distribute. [DE 9].

STATEMENT OF THE FACTS

On September 28, 2016, (SA) Daniel Nowak Filed a Complaint the district Court before the Honorable Magistrate Judge Amanda Arnold Sansone alleging that the Conspiracy Commenced in April 2015 With alleged Co-conspirator(s). And CS-1 who has never been identify informed Detective Wilson that defendant bring with him ("Cocaine") and heroin, and that he has known defendant for ten years. Which the record clearly reflects that ("Cocaine") was never involved in this cause. The record shows that it was impossible for CS-1 or anyone to inform Detective Wilson of (SA) Nowak False accusation concerning this cause.

The record shows that it was impossible for CS-1 or anyone to inform Detective Wilson of (SA) Nowak false accusation. Base on (SA) Brandly affidavit in support of wire taps, which stated that he did not get authorization for Mr. Lee phone until May 31, 2016. And base on the testimony of Detective Walsh an (SA) Marotta. Which (SA) Marotta stated that they did not become aware of defendant until February 2016, which was false and misleading. Because of (SA) Brandly affidavit, these agent did not become aware of Mr. Wright until after May 31, 2016. However, the testimony of these agent's contradicting testimony still shows that (SA) Nowak lie to establish probable cause to arrest and to indict. The record clearly shows that (SA) Nowak was not employed with the FBI until March 2016. The record shows that (SA) Nowak did not have any personal knowledge of this investigation. That he allege in April 2015. (SA) Nowak adamantly stated in his Complaint, "the present investigation was initiated in April of 2015, targeting a well established heroin distribution network. The record clearly shows (SA) Nowak figured

himself in a Grand Jury proceeding, and lied before the Honorable Judge Amanda Arnold Sansone to arrest, and to establish probable cause. Defendant filed a motion under Fed. R. C. P. 16(e), to review the Grand Jury transcript which was denied. (SA) Nawab has not yet disclose to the defense or the Court how he obtained this information.

SUMMARY OF THE ARGUMENT

THE APPEALS COURT ERRED DENYING WRIGHT'S IN FORMA PAUPERIS MOTION.

ARGUMENT

A. Standard of Review

The Appeals Court's denial of a in Forma pauperis Motion is review for abuse of discretion. See Cappedge v. United States, 369 U.S. 438, 445, 82 S. Ct. 917 8 L Ed. 2d 21 (1962); Busch v. County of Volusia, 189, F.R.D. 687, 691 (M.D Fla 1999).

B. The Appeals Court erred denying Wright's in Forma pauperis motion.

B. THE APPEALS COURT ERRED DENYING WRIGHT'S INFORMA PAUPERIS MOTION

IF From the Face of the paper Filed in a Federal Court of Appeals by a defendant Convicted of Crime in a Federal District Court who seeks leave to appeal from his conviction in forma pauperis, following the denial of such relief by the District Court, which certified that the appeal was not taken in good faith, it is apparent that the applicant will present issues for review not clearly frivolous, the Court of Appeals should grant leave to appeal in forma pauperis, appoint Counsel to represent the appellant, and proceed to consideration of the appeal on the merit in the same manner that it considers paid appeals; but if the claims made or the issue sought to be raised by the applicant are such that their substance cannot adequately be ascertained from the face of the defendant's application, the Court of Appeals must provide the applicant with the assistance of Counsel and a record of sufficient completeness to enable him to attempt to make a showing that the District Court's Certificate of lack of good faith is in error and that leave to proceed with the appeal in forma pauperis should be allowed, and should grant leave to proceed

With the appeal in forma pauperis should be allowed, and should grant leave to proceed in forma pauperis if the applicant, with the aid afforded him, presents for the Court's determination any issue that is not clearly frivolous.

Violation of Coppedge V. United States

Unless the issue raised by an indigent seeking leave to appeal in forma pauperis are so frivolous that the appeal would be dismissed in the case of a nonindigent litigant under Rule 39(a) of the Federal Rule of Criminal Procedure, the request of an indigent for leave to appeal in forma pauperis must be allowed, in order to assure equality of consideration for all litigants. See Coppedge V. United States, 369 U.S. 438, 445, 82 S. Ct. 917, 81 F.2d 21 (1962); Busch V. County of Volusia, 189 F.R.D. 687, 691 (M.D. Fla 1999).

Where a claim is arguable, but ultimately will be unsuccessful, it should be allowed to proceed. See CoField V. Alabama Pub. Serv. Comm'n, 936 F.2d 512, 515 (11th Cir. 1991). Appellant asserts that this is a bad-faith denial of appellant in forma pauperis motion.

And appeal may not be taken in forma pauperis if the trial court certifies, either before or after the notice of appeal is filed, that the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). A party demonstrates good faith by seeking appellate review of any issue that is not frivolous when judged under an objective standard. See Coppedge v. United States, 319 U.S. 438, 455, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962); Busch v. County of Volusia, 189 F.R.D. 687, 81 M.D. Fla 1999; United States v. Wilson, 707 F. Supp. 1582, 1583 (M.D. Ga. 1989), *aff'd*, 896 F.2d 558 (11th Cir. 1990). An issue is frivolous when it appears that the legal theories are "indisputably meritless." See Neitzke v. Williams, 490 U.S. 319, 327, 109 S. Ct. 1827, 104 L. Ed. 2d 338 (1989); Carroll v. Gross, 984 F.2d 392, 393 (11th Cir. 1993). Or, stated another way, an in forma pauperis action is frivolous, and thus not brought in good faith, if it is "without arguable merit either in law or fact." Napier v. Preslicka, 314 F.3d 528, 531 (11th Cir. 2002); Bilal v. Driver, 251 F.3d 1346, 1349 (11th Cir. 2001). "Arguable means capable of being convincingly argued." Sun v. Forrester, 939 F.2d 924, 925 (11th Cir. 1991). As Judge Scalia stated "it is the duty of the United States Supreme Court to assure to the greatest degree possible, within statutory framework for appeals created by Congress, equal treatment for every litigant before the bar."

REASON FOR GRANTING THE APPEAL

1. a United States Court of Appeals has decided an important federal question in way that conflict with relevant decision of this Court.

2. a United States Court of Appeals has entered a decision in conflict with the decision of another United States Court of Appeals on the same important matter.

3. Appellant asserts that this writ of mandamus will aid the Court, by not allowing the Court of Appeals to deliberately abuse its discretion, and make decisional errors.

4. Appellant asserts that, that appellant has exhausted all avenues to obtain relief. There is no adequate way immediately to review the denial of appellant's in forma pauperis motion in any form or in any Court.

This decision is of great importance to the public interest.

TIMELINESS

If there are any time deficiency in this matter, Appellant would like to inform the Court, that Appellant filed a timely reconsideration motion concerning this Cause. On or about Dec 2, 2019, and I have been waiting patiently for the Court decision, on the motion to reconsider. Appellant asserts that Appellant has not received any order addressing the motion to this date October 5, 2020. Concerning the motion to reconsider. Appellant asserts that, Appellant send two correspondence inquiring about the status of the motion for reconsideration, on or about February 14, 2020, and on or about March 10, 2020. The Court of appeal has not yet properly responded, are issue and order in this matter.

It is imperative that the court knows the deliberate sabotage of Appellant pre-appeal by the Court, and the aggression against Appellant Constitutional right. The record reflects that the Court has deliberately not send Appellant an order advising Appellant of any decision. That was render on the motion. The two correspondence clearly requested an status update concerning the reconsideration motion. This is the reason Appellant is unaware of any other respondents, in this matter.

Appellant also like to bring to the Court attention, Appellant has been in (SHU) Solitary Confinement Since February 7, 2020. This Facility has denied Appellant right to access to the Court, Lewis V. Casey. Appellant asserts that he has been denied minimal forms of legal advice, and "System Court provided forms. Appellant request from the court excusable neglect, if it any time deficiency in this matter. In the interest of justice.

CONCLUSION

The petition for a writ of mandamus should be granted.

Respectfully Submitted,
W. D. [Signature]

Date: October 6, 2020