

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



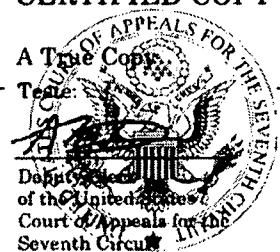
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May 18, 2022

By the Court:

No. 22-1404	JERICOMATIAS CRUZ, Plaintiff - Appellant v. UNITED STATES OF AMERICA, Defendant - Appellee
Originating Case Information: District Court No: 1:21-cv-05007 Northern District of Illinois, Eastern Division District Judge Harry D. Leinenweber	

CERTIFIED COPY



This cause, docketed on March 14, 2022, is **DISMISSED** for failure to timely pay the required docketing fee, pursuant to Circuit Rule 3(b).

form name: c7_FinalOrderW_Mandate (form ID: 137)

APPENDIX A

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

JERICO MATIAS CRUZ,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 21 C 5007

Judge Harry D. Leinenweber

ORDER

Plaintiff Jerico Matias Cruz's Motion to Appeal *in forma pauperis* (Dkt. No. 32) is denied.

STATEMENT

When analyzing a motion to appeal *in forma pauperis*, the Court must decide whether the appeal is taken in good faith. 28 U.S.C. § 1915 (a)(3). An appeal is taken in good faith if "'a reasonable person could suppose that the appeal has some merit.'" *Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000), *see Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000) (holding that an appeal is taken in bad faith if it means to "sue on the basis of a frivolous claim, which is to say a claim that no reasonable person could suppose to have any merit"). If the Court finds that an appeal is not taken in good faith, a plaintiff may not proceed *in forma pauperis*. 28 U.S.C. § 1915 (a)(3).

Plaintiff's appeal is not taken in good faith because further relief is impossible. Plaintiff seeks production of a specific physical police report, generated by the Department of Veteran Affairs prior to 2019. When Plaintiff filed a FOIA request for that record, he was informed that the Government no longer has access to that record based on a transition in record-keeping methods. Plaintiff filed a Complaint, seeking to compel production of the record in question.

During the proceedings, the Government explained that paper records have a retention period of three years, so the police report in question was not retained. The parties appeared before the Court on January 27, 2022, and February 10, 2022. (Dkt. Nos. 22, 23.) At these hearings, the Court informed Plaintiff that, if the record he sought no longer existed, his case would be dismissed because no further relief could be granted. (1/27/2022 Hearing Tr. 21:13-22, Dkt. No. 22.) Once it was confirmed that the record in question no longer existed, the Court asked Plaintiff if he had any objection to the case being dismissed. (2/10/2022 Hearing Tr. 2:19-20 Dkt. No. 23) Plaintiff informed the Court that he understood that the case was going to be dismissed because the police report was not retained. (*Id.* 3:3-8)

After the Court dismissed the case, Plaintiff filed a Motion to Vacate Judgment. (Dkt. No. 24.) Plaintiff's Motion alleged

that the Court failed to adequately explain why the case was dismissed. The Court denied Plaintiff's Motion. (Dkt. No. 27.) In its denial, the Court reiterated why the case was dismissed and that it had explained the reasons to Plaintiff.

Plaintiff next filed this Motion to Appeal *in forma pauperis*, once again alleging that the Court did not explain why it dismissed the case. The Court has thoroughly explained its reasoning to Plaintiff. Regardless, Plaintiff's claim no longer has any merit. The Government has searched for records responsive to Plaintiff's FOIA request. Those records do not exist. Because further relief is impossible, Plaintiff's appeal is not taken in good faith. Plaintiff's Motion to Appeal *in forma pauperis* is denied.



Harry D. Leinenweber, Judge
United States District Court

Dated: 3/29/2022

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JERICIO MATIAS CRUZ — PETITIONER
(Your Name)

VS.

UNITED STATES OF AMERICA RESPONDENT(S)

PROOF OF SERVICE

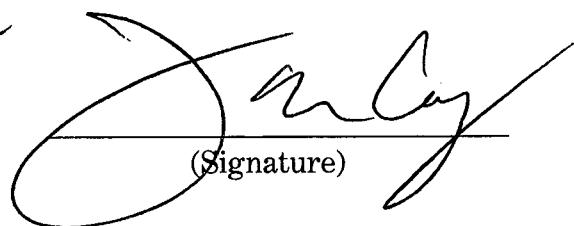
I, JERICIO MATIAS CRUZ, do swear or declare that on this date, _____, 20____, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

SOLICITOR GENERAL OF THE UNITED STATES, Room 5616
DEPARTMENT OF JUSTICE,
950 PENNSYLVANIA AVE., N.W.,
WASHINGTON, D.C. 20530-0001

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 08/13/2022, 2022


(Signature)