

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 5:10-cr-40014-JTM

RITO VASQUEZ-GARCIA,

Defendant.

**MEMORANDUM AND ORDER**

This matter is before the court on a motion for leave appeal *in forma pauperis* by Rito Vasquez-Garcia. Under 28 U.S.C. § 1915(a)(1), the court may authorize an appeal without prepayment of fees. An appeal may not be taken *in forma pauperis*, however, if the trial court certifies in writing that the appeal is not taken in good faith. § 1915(a)(3).

“Good faith” in this context does not refer to the movant’s subjective state of mind. It refers to the existence of a reasoned, non-frivolous argument on the law and facts. *See DeBardeleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991). Movant has failed to show that he seeks to raise a legally non-frivolous argument on appeal. Accordingly, the court certifies that the appeal is not taken in good faith.

**IT IS THEREFORE ORDERED** this 3<sup>rd</sup> day of May, 2016, that Rito Vasquez-Garcia’s Motion for Leave to Appeal In Forma Pauperis (Dkt. 222) is DENIED.

s/ J. Thomas Marten  
J. THOMAS MARTEN, JUDGE