

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>CRIMINAL ACTION</b>
<b>v.</b>	)	
	)	<b>No. 12-20066-40-KHV</b>
<b>CARLOS GILCHRIST,</b>	)	
	)	
<b>Defendant.</b>	)	
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**MEMORANDUM AND ORDER**

On March 6, 2014, the Court sentenced defendant to 180 months in prison based on a binding plea agreement under Rule 11(c)(1)(C), Fed. R. Crim. P. On July 13, 2018, the Court dismissed for lack of jurisdiction defendant’s pro se Motion To Reduce Sentence Pursuant To 18 U.S.C. § 3582(c)(2) And U.S.S.G. Amendment 782 (Doc. #2109) filed June 29, 2018. See Memorandum And Order (Doc. #2110). This matter is before the Court on defendant’s Application To Proceed In District Court Without Prepaying Fees Or Costs (Doc. #2121) filed August 6, 2018, which the Court construes as a motion to proceed in forma pauperis on appeal. For reasons stated below, the Court overrules defendant’s motion.

Because the Court previously appointed counsel for defendant under 18 U.S.C. § 3006A and it does not appear that his financial circumstances have changed, the Court finds that pursuant to Rule 24(a), Fed. R. App. P., defendant financially qualifies for in forma pauperis status. Under Rule 24(a)(1)(C), defendant’s motion must also state the issues which he intends to present on appeal. Rule 24(a) requires such a statement because the district court will deny in forma pauperis status if it determines that the appeal is not taken in good faith. See Fed. R. App. P. 24(a)(3)(A); see also 28 U.S.C. § 1915(a)(3) (allowing appeals to be taken in forma pauperis only if taken in good faith). Good faith is an objective standard measured by whether the appeal is “frivolous” or lacks a “rational

argument on the law or facts.” Coppedge v. United States, 369 U.S. 438, 448 (1962); see United States v. Silva, 430 F.3d 1096, 1100 (10th Cir. 2005) (appellant must show reasoned, nonfrivolous argument on law and facts in support of issues raised on appeal). Defendant’s motion and notice of appeal do not specify the issues that he intends to raise on appeal. Based on the issues raised in his pro se Motion To Reduce Sentence Pursuant To 18 U.S.C. § 3582(c)(2) And U.S.S.G. Amendment 782 (Doc. #2109) filed June 29, 2018, the Court finds that defendant’s appeal is not made in good faith. As explained in the Court’s Memorandum And Order (Doc. #2110), defendant is not entitled to relief under Amendment 782 because the Court calculated his guideline range under Section 4B1.1 of the Guidelines, not Section 2D1.1. The Court therefore overrules defendant’s motion to proceed in forma pauperis.

**IT IS THEREFORE ORDERED** that defendant’s Application To Proceed In District Court Without Prepaying Fees Or Costs (Doc. #2121) filed August 6, 2018, which the Court construes as a motion to proceed in forma pauperis on appeal, is **OVERRULED**. **The Clerk is directed to forward a copy of this Memorandum And Order to the Tenth Circuit Court of Appeals.**

Dated this 31st day of August, 2018 at Kansas City, Kansas.

s/ Kathryn H. Vratil  
KATHRYN H. VRATIL  
United States District Judge