



## ANALYSIS

The Court construes Mr. Oruta's motion as a motion to waive fees pursuant to Federal Rule of Appellate Procedure 24(a)(3). This rule provides that:

A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding; or

(B) a statute provides otherwise.

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

Here, Mr. Oruta has failed to identify or explain *when* the Court “previously” permitted him to proceed in forma pauperis (“IFP”). *See Fontanez v. Time Warner Cable*, 618 F. App'x 288, 289 (7th Cir. 2015) (“permission to proceed in forma pauperis before the district court likewise permits the party to proceed in forma pauperis on appeal”). The Court has not granted Mr. Oruta IFP status in this case. Furthermore, the Court has no record of Mr. Oruta's IFP status in any other case. *See, e.g., Oruta v. Fifth Third Bank*, No. 3:13-CV-600 JVB, 2013 WL 3201795, at \*2 (N.D. Ind. June 21, 2013) (denying motion for leave to proceed in forma pauperis).

Even assuming that the Court previously permitted Mr. Oruta to proceed in forma pauperis, moreover, the Court certifies that this appeal is not taken in good faith. Rather, like the underlying objection to the class action settlement, this appeal is legally frivolous. *See generally Lee v. Clinton*, 209 F.3d 1025 (7th Cir. 2000). Mr. Oruta again misunderstands the scope of the settlement's release, arguing that he is entitled to “relief other than [the] token award of \$100.00.” (R.287, Notice of Appeal). As noted in the Court's previous ruling, however, the \$100 settlement payment does not purport to resolve Mr. Oruta's other lawsuits pending against the Cook County Department of Corrections or other parties.<sup>1</sup> As such, he remains free to pursue those claims on his own. (R.284). Because no reasonable person could view this appeal—stemming from Mr. Oruta's fundamental misunderstanding as to the scope of the settlement's release—as having “some merit,” the Court certifies that it is not taken in good faith under Federal Rule of Appellate Procedure 24(a)(3). *See Walker v. O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000); *Denton v. Hernandez*, 504 U.S. 25, 31-33 (1992) (an IFP claim is frivolous where there is no “arguable basis” for relief).

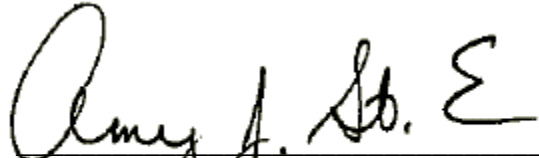
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<sup>1</sup> The Seventh Circuit recently considered an appeal by Mr. Oruta concerning the dismissal of his complaint which had alleged “an unlawful arrest and exposure to asbestos in county jail.” *See Oruta v. Cont'l Air Transp., Inc.*, 607 F. App'x 568 (7th Cir. 2015). The Seventh Circuit dismissed the appeal because Mr. Oruta had failed “to illuminate how his amended complaint alleges sufficient facts to state a plausible claim for relief[.]” *Id.*

**CONCLUSION**

For the foregoing reasons, the Court denies Mr. Oruta's motion to waive fees. (R.289).

**Dated:** August 17, 2016

  
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AMY J. ST. EVE  
United States District Court Judge