

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA,

v.

Patrick Churchville,

Defendant

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C.R. No. 16-00068 WES

MEMORANDUM AND ORDER

WILLIAM E. SMITH, Chief Judge.

Before the Court is Defendant's Objection to Magistrate Judge Lincoln D. Almond's Report and Recommendation ("R. & R.") (ECF No. 45). The R. & R. recommends that the Court deny Defendant's Motion for Leave to Appeal in Forma Pauperis (ECF No. 40) because his appeal is "indisputably meritless" and would not be taken in good faith. (See R. & R. 1, ECF No. 44.) The Court agrees with Magistrate Judge Almond's reasoning and conclusions.

On September 12, 2018, the Court found that a certificate of appealability was not merited in this action because the Defendant failed to make a substantial showing of the denial of a constitutional right as to any claim as required by 28 U.S.C. § 2253(c)(2). As Magistrate Judge Almond concluded, the Court has already determined that any appeal would be legally groundless. Such appeals are frivolous and not taken in good faith, see Lyons

v. Wall, No. CA 04-380-T, 2007 WL 2067661, at *1 (D.R.I. July 13, 2007), thus Churchville is not entitled to proceed in forma pauperis. See 28 U.S.C. § 1915.

Accordingly, the Court ACCEPTS Magistrate Judge Almond's R. & R. (ECF No. 44) and adopts its reasoning and conclusions. Plaintiff's Motion for Leave to Appeal In Forma Pauperis (ECF No. 40) is therefore DENIED.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "WESmith", written over a horizontal line.

William E. Smith
Chief Judge
Date: November 7, 2018