IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, Plaintiff, v. LAWRENCE RAY COOK, Defendant.	**8:07CR339** **ORDER**

This matter is before the court on the defendant's notice of appeal. Filing No. 147. Under the Federal Rules of Appellate Procedure, 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 the district court certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis. *See* Fed. R. App. P. 24(a)(3); 28 U.S.C. § 1915(a)(3) (stating "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.").

"Good faith" for purposes of 28 U.S.C. § 1915 is the "common legal meaning of the term, in which to sue in bad faith means merely 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." *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000). A lack of good faith is not shown by the mere fact that the appeal lacks merit, but by a showing that the issues raised are so frivolous that the appeal would be dismissed if the case was that of a nonindigent litigant. *Coppedge v. United States*, 369 U.S. 438, 447 (1962); *see also*

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Lee, 209 F.3d at 1026 (adopting *Coppedge* standard, post-Prison Litigation Reform Act (PLRA)).

The court finds that there has been no showing that the defendant/petitioner's appeal is not taken in good faith within the meaning of 28 U.S.C. § 1915, and the court will not so certify. Accordingly,

IT IS ORDERED that defendant Lawrence Ray Cook may proceed in forma pauperis on appeal.

Dated this 16th day of October, 2012.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge