

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DANIEL ERIC COBBLE,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACT. NO. 2:19-cv-705-ECM
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM OPINION and ORDER

Before the Court is the Petitioner's notice of appeal (docs. 12 & 17) and motion for certificate of appealability (doc. 18), which the Court construes to contain a motion for leave to appeal *in forma pauperis*. Also pending before the Court are the Petitioner's Objections (docs. 15 & 16) to the Order of the Magistrate Judge denying the Petitioner's miscellaneous motions (doc. 10). For the reasons as stated, after review of the motions, the Court finds that the Petitioner's motions are due to be denied.

28 U.S.C. § 1915(a) provides that "[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." In making this determination as to good faith, the court must use an objective standard, such as whether the appeal is "frivolous," *Coppedge v. United States*, 369 U.S. 438, 445 (1962), or "has no substantive merit," *United States v. Bottoson*, 644 F.2d 1174, 1176 (5th Cir. Unit B May 1981) (per curiam); *Morris v. Ross*, 663 F.2d 1032 (11th Cir. 1981). In addition, a certificate of appealability is necessary before a petitioner may pursue an appeal in a habeas corpus proceeding. *See* 28 U.S.C. § 223(c)(2); *see also Barefoot v. Estelle*, 463 U.S. 880, 893 (1983).

Applying these standards, the court is of the opinion that the Petitioner's appeal is without a legal or factual basis and, accordingly, is frivolous and not taken in good faith. *See e.g. Rudolph v. Allen*, 666 F.2d 519 (11th Cir. 1982). The Petitioner has filed thirty-one (31) complaints in this Court since June 14, 2019. Twenty-two (22) of the complaints have been dismissed. The Petitioner has appealed twelve (12) cases to the Eleventh Circuit Court of Appeals, and motions to proceed *in forma pauperis* and motions for certificate of appealability have been denied in four other cases to date. *See Cobble v. United States of America*, 2:19-cv-642-ALB; *Cobble v. Barr*, 2:19-cv-416-MHT; *Cobble v. U.S. Government*, 2:19-cv-802-WHA; *Cobble v. U.S. Government*, 2:19-cv-815-WHA.

In this case, the Petitioner appears to challenge his sentence imposed by the State of Georgia. However, as noted by the Magistrate Judge, his petition is largely illegible. (Doc. 4). Nonetheless, the Petitioner is confined at the Sumter County Jail in Americus, Georgia, and this Court does not have jurisdiction to entertain his petition. Thus, the Court concludes that the Petitioner's appeal is without a legal or factual basis.

Accordingly, it is ORDERED as follows that:

1. The Petitioner's Objections (docs. 15 & 16) are OVERRULED;
2. The Petitioner's motion to proceed on appeal *in forma pauperis* is DENIED;
3. The appeal in this cause is certified, pursuant to 28 U.S.C.A. § 1915(a), as not taken in good faith; and
4. The Petitioner's motion for certificate of appealability is DENIED.

DONE this 11th day of December, 2019.

/s/ Emily C. Marks
EMILY C. MARKS
CHIEF UNITED STATES DISTRICT JUDGE