

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

WILLIAM J. WELLS §
VS. § CIVIL ACTION NO. 9:17-CV-80
BRYAN COLLIER, *et al.*, §

MEMORANDUM OPINION AND ORDER

Plaintiff, William J. Wells, an inmate confined at the Eastham Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against defendants Bryan Collier, Kevin Wheat and Gregory Vaughn.

On March 15, 2020, this Court entered a Memorandum Opinion and Order dismissing the civil rights action for lack of personal involvement and as barred by the applicable statute of limitations (docket entry no. 87). A Final Judgment was also entered on the same day (docket entry no. 88). Plaintiff filed a Notice of Appeal on April 1, 2020 (docket entry no. 89). On May 4, 2020, plaintiff filed a Motion for Leave to Appeal *In Forma Pauperis* (docket entry no. 91). Defendants filed a Response in Opposition on May 6, 2020 (docket entry nom. 92).

Pursuant to 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24(a)(3), the Court certifies that the appeal is not taken in good faith. Furthermore, the current motion to proceed *in forma pauperis* on appeal is not in proper form. Plaintiff has failed to submit a certified copy of the trust fund account statement (or institutional equivalent) for the 6-month period preceding the Notice of Appeal which shows the average monthly deposits to the prisoner's account or the average monthly balance in the prisoner's account. 28 U.S.C. § 1915.

Although this Court has certified that the appeal is not taken in good faith under 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24(a)(3), plaintiff may challenge this finding pursuant to *Baugh v. Taylor*, 117 F.3d 197 (5th Cir. 1997), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, United States Court of Appeals for the Fifth

Circuit, within thirty (30) days of this order. The cost to file a Motion to Proceed on Appeal with the Fifth Circuit is \$505.00. If plaintiff chooses to file a separate motion to proceed *in forma pauperis* on appeal, plaintiff must file a new motion that complies with the statutory requirements of 28 U.S.C. § 1915.

So Ordered and Signed

Jun 3, 2020



Ron Clark
Senior Judge