

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

ALFRED DAVID HARDY, III,)
)
 Plaintiff,)
)
 v.) CASE NO. 2:15-CV-597-WKW
) (WO)
 MONTGOMERY CLERK, *et al.*,)
)
 Defendants.)

ORDER

Before the court is Plaintiff Alfred David Hardy’s motion for leave to appeal *in forma pauperis* (“IFP”). (Doc. # 7.) The motion is due to be denied.

“An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). In determining whether an appeal is taken in good faith, the court uses an objective standard to determine whether the appeal is frivolous. *Coppedge v. United States*, 369 U.S. 438, 445 (1962) (“[A] [petitioner’s] good faith in this type of case [is] demonstrated when he seeks appellate review of any issue not frivolous.”). An appeal is “frivolous” when “it has no substantive merit.” *United States v. Bottoson*, 644 F.2d 1174, 1176 (5th Cir. Unit B May 1981).¹

This case was dismissed as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i). Hardy’s complaint alleges that, in August 1996, a Montgomery Municipal Court used an

¹ In *Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (*en banc*), the Eleventh Circuit adopted as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

incorrect or “unverified” social security number on a case action summary report. Hardy requests relief in the form of an investigation into the municipal court’s use of the incorrect social security number and an injunction requiring the municipal court to provide any available information on its use of the incorrect social security number. As the Magistrate Judge explained in his Recommendation (Doc. # 4), the complaint is barred by the applicable statute of limitations, and it does not allege any facts that could support a claim upon which relief could be granted. For the same reasons that the complaint is frivolous, the appeal is also frivolous.

Accordingly, and for the reasons stated in the Recommendation of the Magistrate Judge (Doc. # 4), Plaintiff’s appeal is without a legal or factual basis, has no substantive merit, and is frivolous for purposes of the IFP motion.

Therefore, it is ORDERED that Petitioner’s motion for leave to appeal *in forma pauperis* (Doc. # 7) is DENIED.

DONE this 9th day of November, 2015.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE