

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**WO**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Jeffrey L. Nelson,

Plaintiff,

vs.

Gerald A. Williams et al.,

Defendants.

No. CV 10-2443-PHX-FJM

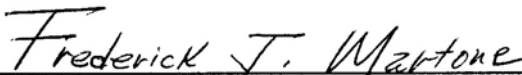
**ORDER**

The court has before it plaintiff's "Application to Proceed in District court without Prepaying Fees or Costs" (doc. 24), which the clerk has docketed as a Motion for Leave to Appeal in forma pauperis. Proceedings in forma pauperis on appeal are controlled by Rule 24, Fed. R. App. P., which provides for the filing of such motions in the district court in the first instance. While the motion fails to identify the "issues that the party intends to present on appeal" as required by Rule 24(a)(1)(C), the court notes that the docket shows the plaintiff has filed two Notices of Appeal(docs. 22 and 23). The Notice of Appeal at doc. 22 is from this court's order of February 28, 2011(doc. 20) granting certain defendants' motion to dismiss where plaintiff failed to respond. The Notice of Appeal at doc. 23 is from this court's order of March 18, 2011 (doc. 21) noting that service had not been made on certain defendants and giving plaintiff notice that the claims against those defendants would be dismissed unless plaintiff showed good cause under Rule 4(m), Fed. R. Civ. P.

1 We note further that plaintiff paid the filing fee in this court (doc. 1), and thus Rule  
2 24(a)(3), Fed. R. App. P. does not expressly apply. Nevertheless, given that plaintiff paid  
3 the fee here, given the nature of the orders from which the appeals are purported to be taken,  
4 and given the language in the notices of appeal, we conclude that the appeals are not taken  
5 in good faith.

6 Accordingly, it is ORDERED DENYING plaintiff's Motion for Leave to Appeal in  
7 forma pauperis. (Doc. 24). Pursuant to Rule 24(a)(4), Fed. R. App. P., the clerk shall give  
8 notice of this denial to the parties and the court of appeals. Plaintiff is advised that he may  
9 file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days  
10 after service of the clerk's notice.

11 DATED this 25<sup>th</sup> day of March, 2011.

12  
13   
14 \_\_\_\_\_  
15 Frederick J. Martone  
16 United States District Judge  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28