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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

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Christopher Stoller,

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No. CV 11-01105-GMS-JRI

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Plaintiff,

)

**ORDER**

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vs.

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Bank of New York Mellon Trust  
Company, et al.,

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Defendants.

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Plaintiff Christopher Stoller, who is confined in the Lake County Adult Corrections Facility, in Waukegan, Illinois, filed a *pro se* Complaint asserting fraud claims and violations of his constitutional rights under 42 U.S.C. § 1983 with a *pro se* motion to proceed *in forma pauperis*, which was not on this District’s court-approved form. (Doc. 1.) In an Order filed on July 25, 2011, this Court denied Plaintiff’s *in forma pauperis* motion with leave to file a new *in forma pauperis* application within 30 days using this District’s required form. (Doc. 9.) The Clerk of Court mailed Plaintiff the court-approved form. (Id.) On August 3, 2011, Plaintiff filed a notice of interlocutory appeal concerning the denial of his *in forma pauperis* motion and a motion for leave to appeal *in forma pauperis*. Plaintiff’s motion will be denied. (Doc. 11, 12.)

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**I. Payment of Filing Fee**

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When bringing an action, a prisoner must either pay the \$350.00 filing fee in a lump sum or, if granted the privilege of proceeding *in forma pauperis*, pay the fee incrementally

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1 as set forth in 28 U.S.C. § 1915(b)(1). An application to proceed *in forma pauperis* requires  
2 an affidavit of indigence and a *certified* copy of the inmate’s trust account statement for the  
3 six months preceding the filing of the Complaint. 28 U.S.C. § 1915(a)(2). An inmate must  
4 submit statements from each institution where he was confined during the six-month period.  
5 Id. To assist prisoners in meeting these requirements, the Court requires use of a form  
6 application. LRCiv 3.4(a).

7 If a prisoner is granted leave to proceed *in forma pauperis*, the Court will assess an  
8 initial partial filing fee of 20% of either the average monthly deposits or the average monthly  
9 balance in Plaintiff’s account, whichever is greater. 28 U.S.C. § 1915(b)(1). An initial  
10 partial filing fee will only be collected when funds exist. 28 U.S.C. § 1915(b)(4). The  
11 balance of the fee will be collected in monthly payments of 20% of the preceding month’s  
12 income credited to an inmate’s account, each time the amount in the account exceeds \$10.00.  
13 28 U.S.C. § 1915(b)(2).

14 **II. Plaintiff’s Motion to Appeal *In Forma Pauperis***

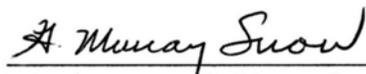
15 Plaintiff asks the Court to grant him *in forma pauperis* status on his interlocutory  
16 appeal. Rule 24(a)(1) of the Federal Rules of Appellate Procedure requires a party who  
17 desires to proceed *in forma pauperis* on appeal to file a motion in the district court which  
18 includes an affidavit that: “(A) shows in the detail prescribed by Form 4 of the Appendix of  
19 Forms the party’s inability to pay or to give security for fees and costs; (B) claims an  
20 entitlement to redress; and (C) states the issues that the party intends to present on appeal.”  
21 Fed. R. App. P. 24(a)(1). The Court will deny Plaintiff’s motion to proceed *in forma*  
22 *pauperis* on appeal because he has not fully complied with Rule 24(a)(1) of the Federal Rules  
23 of Appellate Procedure and because the Court finds that the interlocutory appeal of a non-  
24 appealable order is an appeal that is not taken in good faith. Pursuant to Federal Rule of  
25 Appellate Procedure 24(a)(4), the Court will direct the Clerk of Court to immediately notify  
26 Plaintiff and the Ninth Circuit Court of Appeals of this denial.

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**IT IS ORDERED** that Plaintiff's motion for leave to appeal *in forma pauperis* is **denied.** (Doc. 12.)

DATED this 4th day of August, 2011.

  
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G. Murray Snow  
United States District Judge