

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION**

LARRY WAYNE JONES,  
ADC #70147,

Plaintiff,

v.

RAY HOBBS; *et al*,

Defendants.

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No. 5:08-cv-00233-SWW-JJV

**ORDER**

This matter is before the Court on Plaintiff's *Pro Se* Motion to Certify Partial Summary Judgment for Appeal (Doc. No. 133).

This Court granted in part Defendants' Motion for Summary Judgment by Order dated September 21, 2010, and dismissed Plaintiff's claims against Defendants Harris and Hobbs (Doc. No. 118). Plaintiff then filed a Notice of Appeal with the United States Court of Appeals for the Eighth Circuit (Doc. No. 123). The Eighth Circuit dismissed his appeal on December 13, 2010, because the appeal was premature and the court lacked jurisdiction. (Doc. No. 132).

Plaintiff now asks this Court to certify the September 21, 2010 Order for Appeal, pursuant to FED.R.CIV.P. 41(b). Plaintiff's request under Rule 41 is frivolous. The Eighth Circuit previously determined that Plaintiff's interlocutory appeal from the dismissal of part, but not all of his case, was premature. Therefore, Plaintiff's present motion is DENIED. Accordingly,

IT IS, THEREFORE, ORDERED that Plaintiff's *Pro Se* Motion to Certify Partial Summary Judgment (Doc. No. 133) is DENIED.

IT IS SO ORDERED this 15<sup>th</sup> day of February, 2011.

/s/Susan Webber Wright  
United States District Judge