

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 06-cv-02148-LTB-BNB

DARRELL FORTNER and
JENNIFFER FORTNER, d/b/a Diamond/Dundee Tree Service.

Plaintiffs,

v.

SARAH PELTON, individually and in her official capacity as ATF agent,
ATF AGENTS DOG 1, CAT 2, AND HORSE 3,
THE CITY OF COLORADO SPRINGS,
MAYOR LIONEL RIVERA, individually and in his official capacity as Mayor of C/S,
KATHRYN YOUNG, individually and in her official capacity as City Clerk of C/S,
DARREL PEARSON, individually and in his official capacity as City Forrester of C/S,
JAMES A. CHOATE, individually and in his official capacity as Sergeant for El Paso County
Sheriff's Office,
TERRY MAKETA, individually and in his official capacity as Sheriff of El paso County,
Colorado,
SHANE WHITE, individually and in his official capacity as Asst. City Attorney for the City
of Colorado Springs, CO, and
JAMES E. MCGANNON, individually and in his official capacity as City Forrester for the
City of Colorado Springs, CO,

Defendants.

ORDER DENYING LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL

Babcock, Senior Judge

Darrell Fortner and Jenniffer Fortner have submitted a Notice of Appeal. Darrell Fortner and Jenniffer Fortner previously were allowed to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 in this court in this action. The court has examined the file and has determined that leave to proceed *in forma pauperis* on appeal must be denied. Pursuant to Rule 24(a)(3) of the Federal Rules of Appellate Procedure, the court finds that this appeal is not taken in good faith because has not shown the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal. Accordingly, it is

ORDERED that leave to proceed *in forma pauperis* on appeal is denied because this appeal is not taken in good faith.

DATED at Denver, Colorado this 8th day of April, 2009.

BY THE COURT:

s/Lewis T. Babcock
SENIOR JUDGE, UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF COLORADO