

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

HOWARD BANKS,

Plaintiff,

v.

Case No. 3:09-cv-1284-J-12MCR

WALTER A. MCNEIL,
etc.; et al.,

Defendants.

ORDER

On March 3, 2010, this Court ruled that Plaintiff's appeal was not taken in good faith under Rule 24(a)(3) of the Federal Rules of Appellate Procedure and 28 U.S.C. § 1915(a)(3) because this case was properly dismissed pursuant to 28 U.S.C. § 1915(g) and that he therefore was not entitled to appeal as a pauper. See Court's Order (Doc. #10), filed March 4, 2010. Further, Plaintiff was notified to either file a fully completed Prisoner Consent Form and Financial Certificate or pay the \$455.00 appellate filing and docketing fees. Id. However, on March 25, 2010, the United States Court of Appeals for the Eleventh Circuit, pursuant to Rule 42-1(b), Rules of the Eleventh Circuit, dismissed the appeal for lack of prosecution because Banks failed to pay the filing and docketing fees to the district court. See Order (Doc. #11), filed March 25, 2010. After almost ninety days having passed since the Court's March 4, 2010 Order, Plaintiff filed a Prisoner Consent Form and Financial Certificate (Doc. #12) on June 1, 2010, in this Court.

Upon inquiry from the Eleventh Circuit's Clerk's Office by letter, dated July 8, 2010, this Court was notified to promptly advise as to whether an Order was entered concerning Plaintiff's Prisoner Consent Form and Financial Certificate (Doc. #12). Upon now being notified that Banks has filed a motion to reinstate the appeal in the Eleventh Circuit, it appears that a ruling is now necessary. Thus, Banks' Prisoner Consent Form and Financial Certificate (Doc. #12), construed to include a motion to proceed on appeal in forma pauperis, is **DENIED**. Pursuant to 28 U.S.C. § 1915(g), Banks must pay the \$455.00 appellate filing and docketing fees "immediately and in full rather than on an installment plan." Medberry v. Butler, 185 F.3d 1189, 1193 n.2 (11th Cir. 1999).

DONE AND ORDERED at Jacksonville, Florida, this 14th day of July, 2010.

Howell W. Melton
UNITED STATES DISTRICT JUDGE

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c:
Howard Banks
USCA