

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

ROBERT CURTIS COVINGTON,

Plaintiff,

v.

Case No: 8:16-cv-3371-T-30TBM

UNITED STATES OF AMERICA,

Defendant.

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**ORDER**

THIS CAUSE comes before the Court on Movant's Motion for Leave to Appeal in Forma Pauperis (Doc. 8). The Court previously terminated this Motion (Doc. 22) based on the Eleventh Circuit's dismissal of Movant's appeal. (Doc. 21). But it appears the termination was in error.<sup>1</sup> The Court hereby vacates its prior order (Doc. 22) and enters this order in its stead.

In order to appeal in forma pauperis, a petitioner must show that he is both financially impoverished and that there is a non-frivolous basis for his appeal. *Cordell v. Pac. Indem. Co.*, 335 F. App'x 956, 958 (11th Cir. 2009). Movant seeks to proceed in forma pauperis on his appeal of the Order dismissing his section 2255 motion (Doc. 2) and the Order denying reconsideration (Doc. 5). The Court explained in its Order that Movant's

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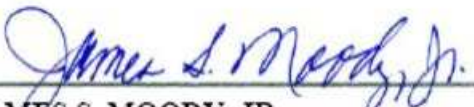
<sup>1</sup> Movant had two appeals pending in this case: 17-11405-G and 17-12103-E. The Motion to Appeal in Forma Pauperis was for appeal 17-11405-G, which is still pending; the Eleventh Circuit dismissed appeal 17-12103-E.

section 2255 motion was dismissed because he failed to get authorization from the Eleventh Circuit to file a second or successive section 2255 motion. (Doc. 2). In fact, Movant alleged he requested authorization to file a second section 2255 motion that the Eleventh Circuit denied. Based on these allegations, the Court concludes the basis for Movant's appeal is frivolous, and, therefore, denies his Motion for Leave to Appeal in Forma Pauperis.

Accordingly, it is ORDERED AND ADJUDGED that:

1. The Court's prior Order (Doc. 22) terminating the Motion for Leave to Appeal in Forma Pauperis is VACATED.
2. Movant's Motion for Leave to Appeal in Forma Pauperis (Doc. 8) is DENIED.

**DONE** and **ORDERED** in Tampa, Florida, this 26th day of July, 2017.

  
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JAMES S. MOODY, JR.  
UNITED STATES DISTRICT JUDGE

Copies furnished to:  
Counsel/Parties of Record