

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

ROBERT LEE HINSON, JR.,

Plaintiff,

vs.

Case No.: 3:09cv204/MCR/MD

FLORIDA LOTTERY DEPARTMENT, et al.

Defendants.

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ORDER

This cause is before the court upon plaintiff's notice of appeal (doc. 9), motion for certificate of appealability (doc. 10) and motion for leave to appeal *in forma pauperis* (doc. 11). Plaintiff is appealing this court's dismissal of his civil rights complaint under the "three strikes" provision of 28 U.S.C. § 1915(g).

A certificate of appealability is required when an appeal is taken from a final order in a habeas corpus proceeding under 28 U.S.C. §§ 2254 or 2255. See 28 U.S.C. § 2253(c)(1). Because plaintiff is taking an appeal of a final order in a civil rights proceeding under 42 U.S.C. § 1983, he is not required to obtain a certificate of appealability. His motion will therefore be denied as unnecessary.

With regard to plaintiff's motion for leave to appeal *in forma pauperis*, pursuant to 28 U.S.C. § 1915 and Fed.R.App.P. 24(a), this court hereby certifies that this appeal is NOT taken in good faith and plaintiff is NOT entitled to proceed on appeal *in forma pauperis*. The reasons for this court's decision are outlined in the Magistrate Judge's Report and Recommendation dated May 14, 2009 (doc. 4) and this court's Order dated June 15, 2009 (doc. 7) which adopted and incorporated the recommendation.

Accordingly, it is ORDERED:

1. Plaintiff's motion for certificate of appealability (doc. 10) is DENIED as unnecessary.

2. Plaintiff's motion for leave to appeal *in forma pauperis* (doc. 22) is DENIED, and he is directed to pay the full appellate filing fee of \$455.00 within thirty days from the date of this order.

DONE AND ORDERED this 25th day of June, 2009.

s/ M. Casey Rodgers
M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE