

IN THE UNITED STATES DISTRICT COURT
 FOR THE MIDDLE DISTRICT OF GEORGIA
 MACON DIVISION

PATRICK HENRY NELSON,	:	
	:	
Plaintiff	:	
	:	
VS.	:	CIVIL ACTION NO.: 5:07-CV-427 (HL)
	:	
VICTORIA MALONE, <i>et al.</i> ,	:	
	:	
Defendants	:	

ORDER

Plaintiff **PATRICK HENRY NELSON** has filed a motion to proceed *in forma pauperis* on appeal (R. at 57) from the Court’s Order adopting the United States Magistrate Judge’s Recommendation to grants defendants’ motion to dismiss (R. at 50, 54). In the Court’s best judgment, an appeal from that Order cannot be taken in good faith. 28 U.S.C. § 1915(a)(3).

Having been carefully considered, plaintiff’s motion to proceed *in forma pauperis* on appeal is hereby **DENIED**. Plaintiff’s motion to appoint counsel for his appeal (R. at 15, 18) is **DENIED AS MOOT**. Finally, plaintiff’s “Motion for Stay/Equitable Tolling” (R. at 15, 16) is **DENIED**.

If plaintiff wishes to proceed with his appeal, he must pay the entire \$455.00 appellate filing fee. Because plaintiff has stated that he cannot pay the \$455.00 immediately, he must pay using the partial payment plan described under 28 U.S.C. § 1915(b). Pursuant to §1915(b), the prison account custodian where plaintiff is incarcerated shall cause to be remitted to the Clerk of this Court monthly payments of 20% of the preceding month’s income credited to plaintiff’s account until the \$455.00 appellate filing fee has been paid in full. Twenty percent of any deposits into the prisoner’s account shall be withheld by the prison account custodian who, on a monthly basis, shall forward the amount withheld from the prisoner’s account to the Clerk of this Court each time the amount in the account exceeds \$10.00 until the total filing fee of \$455.00 has been paid. Checks should be made payable to “Clerk, U.S. District Court.”

SO ORDERED, this 27th day of April, 2009.

s/ **Hugh Lawson**

HUGH LAWSON
 UNITED STATES DISTRICT JUDGE