

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

NELSON HENRY JAMES,	:	
	:	
Plaintiff	:	
	:	
VS.	:	CIVIL ACTION NO.: 5:09-CV-323 (MTT)
	:	
RALPH BATTLE, <i>et al.</i> ,	:	
	:	
Defendants	:	

ORDER

Plaintiff **NELSON HENRY JAMES** has filed a motion to proceed *in forma pauperis* on appeal (R. at 72) from the Court’s Orders adopting the United States Magistrate Judge’s Recommendations to grants defendants’ motion to dismiss and deny plaintiff’s motions for writ of mandamus and temporary restraining order. (R. at 63, 64). In the Court's best judgment, an appeal from those Orders 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**.

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."

The Clerk of Court is **DIRECTED** to mail a copy of this Order to the custodian of the prison in which plaintiff is incarcerated.

SO ORDERED AND DIRECTED, this 12th day of October, 2010.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT