

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

JOHNNY P. PIKE,

Plaintiff

VS.

N. W. CHISM, *et al.*,

Defendants

CIVIL ACTION NO.: 5:10-CV-15 (MTT)

ORDER

Plaintiff **JOHNNY P. PIKE**, has filed a motion to proceed *in forma pauperis* on appeal (R. at 42) from the Court's February 24, 2011 Order. (R. at 26). 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**.¹

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

¹Plaintiff also filed a Motion for a Certificate of Appealability ("COA"). However, a COA is not a statutory prerequisite to the appeal of a 42 U.S.C. § 1983 action. Therefore, Plaintiff's motion for a COA is **DENIED** as moot.

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 21st day of March, 2011.

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

Inb