Dollar v. Carter et al Doc. 68

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

CIVIL ACTION NO. 5:10-CV-208 (MTT)

ORDER

This matter is before the Court on the Plaintiff Wesley Eugene Dollar's Motion for Permission to Appeal In Forma Pauperis (Doc. 65) (the "Motion").¹ For the following reasons, the Motion is denied.

The Plaintiff seeks to appeal this Court's previous Order. (Doc. 54). In the previous Order, the Court adopted the Recommendation of the Magistrate Judge which stated that the Plaintiff's claims were precluded by the doctrine of *res judicata*.

Therefore, the Magistrate Judge recommended granting Defendants' Motion to Dismiss.

This Court has already denied the Plaintiff's first and second Motions to Reconsider, and the Plaintiff now seeks to appeal the Court's Order without having to pay costs for the second time. Plaintiff's first Motion for Permission to Appeal In Forma Pauperis was denied on September 8, 2011. (Doc. 63).

¹ The Plaintiff did not fill out the regular Motion to Proceed In Forma Pauperis, nor did he fill out the Motion to Appeal In Forma Pauperis. Instead, the Plaintiff wrote out his Motion for Leave to Proceed on Appeal In Forma Pauperis.

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In this Motion, the Plaintiff asserts that the Motion also represents a "Poverty Affidavit." Even if such is the case, the Poverty Affidavit does not fulfill the requirements set forth in Federal Rule of Appellate Procedure 24(a).

Federal Rule of Appellate Procedure 24(a) sets out the requirements for an appellant in a civil case who wishes to proceed in forma pauperis. According to Rule 24(a)(1), the appellant "must attach an affidavit that...(A) shows in the detail prescribed by Form 4 of the Appendix of Forms [his] inability to pay or give security for the fees and costs; (B) claims an entitlement to redress; and (C) states the issues that [he] intends to present on appeal." Here, the Plaintiff's Affidavit is insufficient in that it neither claims an entitlement to redress nor states the issues that are presented on appeal. Therefore, the Plaintiff has failed to satisfy the requirements of Rule 24 and his Motion (Doc. 65) is **DENIED** without prejudice. If the Plaintiff wishes to proceed with his appeal, he must pay the entire \$455.00 appellate filing fee, or he may have one opportunity to amend his Motion to conform to the standards set out by Fed. R. App. Proc. 24(a).

SO ORDERED, this 16th day of September, 2011.

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

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