

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

MORRIS SCOTT HOLMES,

Plaintiff,

VS.

Dr. FYE, et. al.,

Defendants.

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NO. 5:12-cv-0247-MTT-CHW

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**ORDER**

Plaintiff **MORRIS SCOTT HOLMES**, a prisoner at Calhoun State Prison in Morgan, Georgia, has filed a Motion to Proceed *in forma pauperis* on Appeal (ECF No. 11) from this Court’s July 31, 2012, Order (ECF No. 5) dismissing his Complaint under 42 U.S.C. §1915(g). In the Court’s best judgment, an appeal from that Order cannot be taken in good faith. Plaintiff’s Motion to Proceed *in forma pauperis* on appeal is accordingly **DENIED**. See 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.”); Fed. R. App. P. 24(a)(3) (“A party who was permitted to proceed in forma pauperis in the district-court action . . . may proceed on appeal *in forma pauperis* . . . unless . . . the district court . . . certifies that the appeal is not taken in good faith”).

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 shall mail a copy of this Order to the custodian of the prison in which Plaintiff is presently incarcerated.

**SO ORDERED**, this 3rd day of December, 2012.

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

jlr