

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

HARRY LEE BOGGS, JR.,

Plaintiff,

VS.

WILLIAM ROBERTSON, *et. al.*

Defendants.

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CASE NO. 7:13-CV-0130-HL-TQL

PROCEEDINGS UNDER 42 U.S.C. § 1983
BEFORE THE U. S. MAGISTRATE JUDGE

ORDER

Plaintiff **Harry Lee Boggs**, who is currently incarcerated at the Valdosta State Prison in Valdosta, Georgia, filed a *pro se* civil rights complaint under 42 U.S.C. § 1983. On October 9, 2013, the Court ordered Plaintiff to file, within twenty-one days, a certified copy of his trust account statement and a proper § 1983 complaint and informed him that his failure to fully and timely comply with that order could result in the dismissal of his complaint. (Doc. 4.) More than forty days later, having heard nothing from Plaintiff, the Complaint was accordingly dismissed without prejudice. *See* 28 U.S.C. § 1915A. (Doc. 5.) Judgment was entered on November 20, 2013. (Doc. 6.)

Plaintiff has now filed a Notice of Appeal and a Motion to Proceed *in forma pauperis* on Appeal (Docs. 7, 10) from this Court's Order dismissing his Complaint. In the Court's best judgment, an appeal from this 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 \$505.00 appellate filing fee. Because Plaintiff has stated that he cannot pay the \$505.00 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 \$505.00 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 \$505.00 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 presently incarcerated. Any further requests to proceed *in forma pauperis* on appeal should be directed, on motion, to the United States Court of Appeals for the Eleventh Circuit, in accordance with Rule 24 of the Federal Rules of Appellate Procedure.

SO ORDERED this 7th day of January, 2014.

s/ *Hugh Lawson*
HUGH LAWSON
UNITED STATES DISTRICT COURT JUDGE