

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

JUDITH HURT-WHITMIRE,	:	
GDC NO. 836510,	:	REMOVAL ACTION
Plaintiff,	:	28 U.S.C. § 1442;
	:	28 U.S.C. § 1443
v.	:	
	:	CIVIL ACTION NO.
STATE OF GEORGIA and	:	2:09-CV-0218-RWS
SUPERIOR COURT OF RABUN	:	
COUNTY,	:	
Defendants,	:	

ORDER AND OPINION

On January 4, 2010, Plaintiff's motion for leave to file a second notice of removal of action from state court was denied. (Doc. 7.) On February 2, 2010, Plaintiff's motion for reconsideration was denied. (Doc. 10.) On March 10, 2010, Plaintiff filed a motion to set aside order for extraordinary circumstances. (Doc. 11.) On April 2, 2010, Plaintiff filed a notice of appeal, and on April 9, 2010, Plaintiff filed a motion to appeal *in forma pauperis*. (Docs. 14 and 15.) On April 13, 2010, Plaintiff's motion to set aside order for extraordinary circumstances was denied. (Doc. 18.) On April 21, 2010, Plaintiff's motion to appeal *in forma pauperis* was denied. (Doc. 19.) Plaintiff has now filed a motion for reconsideration of the denied motion to set aside order for extraordinary

circumstances and a motion for reconsideration of the denied motion to appeal *in forma pauperis*. (Docs. 22 and 23.)

“As a general matter, the filing of a notice of appeal deprives the district court of jurisdiction over all issues involved in the appeal.” *Mahone v. Ray*, 326 F.3d 1176, 1179 (11th Cir. 2003). Here, Plaintiff seeks review of this Court’s conclusion that the evidence she presented did not support her claim that she was a federal officer of the Internal Revenue Service (IRS) and immune from prosecution in state court for forgery and theft by deception. (Docs. 7, 10, 11, 12, and 23.) Because Plaintiff’s claim that she has evidence showing that she is a federal officer of the IRS is the subject of the appeal, this Court does not have jurisdiction to consider her motion for reconsideration of the denied motion to set aside order for extraordinary circumstances.

Plaintiff also seeks reconsideration of the order denying her motion to appeal *in forma pauperis*. (Doc. 22.) In denying Plaintiff leave to appeal as an indigent, this Court concluded that the evidence she presented showed no more than she was authorized to operate a private tax preparation business and represent clients before the IRS. (Doc. 19 at 2-3.) This Court also relied on a previous decision of the United States Court of Appeals for the Eleventh Circuit. *See Hurt-*

Whitmire v. Georgia, 336 F. App'x 882 (11th Cir. 2009). In that case, the Eleventh Circuit held that Plaintiff's employment with a private tax preparation company did not make "her a federal officer of the IRS or a person acting under an IRS officer." *Id.* at 883.


Plaintiff claims that the evidence she has to support her claim that she is was a federal officer of the IRS was not available when the Eleventh Circuit reviewed her case. (Doc. 22 at 2.) Plaintiff also maintains that this Court misinterpreted her evidence. (*Id.* at 3.)

Plaintiff's evidence consists of a letter from the IRS to Plaintiff showing that her private tax preparation company could continue to be an Authorized IRS e-file Provider for the 2007 filing season, a license showing that she was enrolled to practice before the IRS, and a copy of certain Treasury regulations. (Doc. 11-2, Appendix A.) As previously concluded, this evidence does not demonstrate that Plaintiff was a federal officer of the IRS. Instead, Plaintiff's evidence only shows that she may operate a tax preparation business and represent clients before the IRS. Accordingly, Plaintiff's motion for reconsideration of the denied motion to appeal *in forma pauperis* does not demonstrate that her appeal is taken in good

faith under 28 U.S.C. § 1915(a)(3). Therefore, Plaintiff is not entitled to appeal *in forma pauperis*.

IT IS ORDERED that, Plaintiff's two motions for reconsideration [Docs. 22 and 23] are **DENIED**. Any further request to appeal *in forma pauperis* should be made in the United States Court of Appeals for the Eleventh Circuit.

IT IS SO ORDERED, this 12th day of July, 2010.



RICHARD W. STORY
United States District Judge