

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

SARAH MARGARET TAYLOR,)	CIVIL NO. 15-00265 SOM/KSC
)	
Plaintiff,)	
)	
vs.)	ORDER DENYING REQUEST TO
)	PROCEED <u>IN FORMA PAUPERIS</u> ON
LESTER K LEU; ANDREW LEE; LEU)	APPEAL; FORM 4
OKUDA & DOI;)	
)	
PITE DUNCAN, LLP; ANNA T.)	
VALLIENTE; DAVID E.)	
McALLESTER;)	
)	
CHRISTIAN FENTON;)	
)	
SUSAN FENTON;)	
)	
STATE OF HAWAII; THIRD)	
CIRCUIT COURT FOR THE)	
DISTRICT OF HAWAII;)	
)	
UNITED STATES DISTRICT COURT)	
FOR THE DISTRICT OF HAWAII;)	
)	
WELLS FARGO, NA, aka)	
AMERICA'S SERVICING COMPANY;)	
)	
ASSURANT SPECIALTY PROPERTY,)	
aka WELLS FARGO NA AS STORM)	
INSURER;)	
)	
US BANK NATIONAL ASSOCIATION)	
AS TRUSTEE FOR STRUCTURED)	
ASSET SECURITIES CORPORATION)	
MORTGAGE PASS-THROUGH)	
CERTIFICATE, SERIES 2006-NC1)	
)	
Defendants.)	
)	

ORDER DENYING REQUEST TO PROCEED IN FORMA PAUPERIS ON APPEAL

This action arose out of a state-court foreclosure of Plaintiff Sarah Margaret Taylor's mortgage. See 3CC 14-1-000289. That state-court foreclosure gave rise to two separate federal cases. First, on January 16, 2015, Taylor removed the state-court foreclosure action to this court. See Notice of Removal, Civ. No. 15-00018 DKW/KSC. On March 10, 2015, Judge Derrick Watson adopted findings and a recommendation to remand the foreclosure proceedings to state court. See Civ. No. 15-00018 DKW/KSC, ECF No. 15. Second, Taylor filed the present case, which lists claims that relate to the foreclosure.

On September 9, 2016, this judge dismissed the federal claims asserted in Taylor's Amended Complaint and declined to exercise supplemental jurisdiction over the remaining state-law claims. See ECF No. 81. Judgment was entered the same day. See ECF No. 82.

On October 12, 2016, Taylor filed a Notice of Appeal and a motion for leave to proceed in forma pauperis. See ECF No. 84. Although Taylor's Notice of Appeal also lists the case numbers for the state-court action and the remand of that removed case by Judge Watson, this order is limited to the case before this judge, Civil No. 15-00265 SOM/KSC. Taylor's notice of appeal should not include the state-court action. A final state-court order or judgment may not be appealed to a federal court. See Bianchi v. Rylaarsdam, 334 F.3d 895, 900-02 (9th Cir. 2003).

Judge Watson has already denied Taylor's request to proceed in forma pauperis in Civil No. 15-00018 DKW/KSC. See Civ. No. 15-00018 DKW/KSC, ECF No. 24. The court here denies Taylor's request to proceed in forma pauperis on her appeal in this separate action.

Rule 24(a)(1) of the Federal Rules of Appellate Procedure states:

Except as stated in Rule 24(a)(3), a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that:

- (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;
- (B) claims an entitlement to redress; and
- (C) states the issues that the party intends to present on appeal.

Rule 24(a)(3) of the Federal Rules of Appellate Procedure provides:

A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

- (A) the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding; or

(B) a statute provides otherwise.

Taylor paid this court's filing fee and did not seek leave to proceed in forma pauperis in the district court. See ECF No. 3.

This court denies Taylor's request to proceed in forma pauperis on appeal without prejudice because she failed to comply with the requirements of Rule 24(a)(1) of the Federal Rules of Appellate Procedure. Taylor has not completed Form 4 or provided an affidavit with the detail necessary to demonstrate her inability to pay or give security for fees and costs. Taylor's request is devoid of any information concerning her income, assets, debts, or any other relevant information. The court is therefore unable to adequately assess Taylor's ability to pay the requisite fees. Moreover, Taylor neither claims an entitlement to redress nor states the issues she intends to present on appeal.

In case Taylor wishes to file another request to proceed in forma pauperis on appeal, the court attaches to this order a copy of Form 4.

The Clerk of Court is ordered to (1) notify the parties and the Ninth Circuit of the denial of Taylor's request to proceed in forma pauperis; and (2) send a copy of this order to Taylor via e-mail.



IT IS SO ORDERED.

DATED: Honolulu, Hawaii, October 18, 2016.

/s/ Susan Oki Mollway
Susan Oki Mollway
United States District Judge

Taylor v. Leu, et al., Civil No. 15-00265 SOM/KSC; ORDER DENYING REQUEST TO
PROCEED IN FORMA PAUPERIS ON APPEAL