

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LORENZO ANTHONY,

Plaintiff,

v.

CASE NO. 07-10467

HON. MARIANNE O. BATTANI

WEIDMAN, et al.

Defendants.

**OPINION AND ORDER DENYING PLAINTIFF'S MOTION FOR
RECONSIDERATION**

Before the Court is Plaintiff's Motion for Reconsideration of the Court's July 17th, 2008 Order (Doc. #74). The Court, ruling on Plaintiff's application to proceed *in forma pauperis* on appeal, found that there was no way of determining the validity of Plaintiff's appeal when Plaintiff failed to present the Court with his appeal.

Pursuant to Rule 7.1(g)(3) of the Local Rules for the Eastern District of Michigan, a motion for rehearing or reconsideration may be filed within ten days after the entry of the decision to which it objects. A motion for reconsideration which merely presents the same issues already ruled upon by the Court, either expressly or by reasonable implication, will not be granted. Czajkowski v. Tindall & Associates, P.C., 967 F.Supp. 951, 952 (E.D. Mich. 1997). A party moving for reconsideration bears a heavy burden. Wrench LLC v. Taco Bell Corp., 36 F.Supp.2d 787, 789 (W.D. Mich.1998). In order to prevail, the movant must demonstrate: (1) the Court and the parties have been misled by a palpable defect, and (2) the correction of that defect will result in a different disposition of the case. L.R. 7.1(g)(3). A "palpable defect" is an

error which is obvious, clear, unmistakable, manifest or plain. Fleck v. Titan Tire Corp., 177 F.Supp.2d 605, 624 (E.D. Mich. 2001); Mktg. Displays, Inc. v. Traffix Devices, Inc., 971 F. Supp. 262, 278 (E.D. Mich. 1997).

Plaintiff objects to the Order, claiming that Plaintiff was not required to submit his appeal, simply his notice of appeal. However, the relevant statute provides that “[a]n appeal may not be taken *in forma pauperis* if the trial court certifies that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). Without the ability to review Plaintiff’s appeal, the Court is unable to make this certification, and thus the Court was correct in denying Plaintiff’s application to proceed *in forma pauperis*.

The Court therefore **DENIES** Plaintiff’s motion for reconsideration.

IT IS SO ORDERED.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

DATED: 9/09/08

CERTIFICATE OF SERVICE

Copies of this Order were served upon counsel of record on this date by ordinary mail and electronic filing.

s/Colette Motowski
SECRETARY