

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JAMES R. GIBBS, JR.	§	PLAINTIFF
	§	
v.	§	CIVIL ACTION NO. 1:08CV601-LG-RHW
	§	
UNITED STATES POSTAL SERVICE	§	DEFENDANT

ORDER ADOPTING PROPOSED FINDINGS OF FACT AND RECOMMENDATION

This cause comes before the Court on the Proposed Findings of Fact and Recommendation [3] of United States Magistrate Judge Robert H. Walker entered in this cause on October 22, 2008, denying Plaintiff James R. Gibbs, Jr.'s Motion for Leave to Proceed *In Forma Pauperis* [2].

Gibbs filed an Objection which states, "After monthly expenses are met and I give my spouse some money I can't afford to pay the whole filing fee at once, but if the Court could and would set up a monthly payment plan I will be glad to make it." (Obj.). The Court finds that he has not shown that the Magistrate Judge's findings or conclusion were erroneous. For example, Gibbs has a savings account which has more than enough money to pay the filing fee. He also has \$445 a month left over after he pays his expenses. Only on objection, he states that he gives some of this left over money to his wife, but he does not specify how much he gives her.

Leave to proceed *in forma pauperis* without the payment of fees, costs, or the giving of security, is addressed to the sound discretion of the District Court. *Evensky v. Wright*, 45 F.R.D. 506, 507 (N.D. Miss. 1968). Leave to proceed *in forma pauperis* is a privilege not a right. *Id.* The privilege of proceeding *in forma pauperis* in civil actions for damages should be allowed only in exceptional circumstances. *Id.* The Court finds Gibbs has failed to point to any

exceptional circumstances in the instant action that would warrant the granting of pauper's status.

The Court, having fully reviewed the same as well as Plaintiff's objections and the record in this matter, and being duly advised in the premises, finds that said Proposed Findings of Fact and Recommendation should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Proposed Findings of Fact and Recommendation [3] of United States Magistrate Judge Robert H. Walker entered on October 22, 2008, be, and is hereby adopted as the opinion of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff's [2] Motion for Leave to Proceed *In Forma Pauperis* is **DENIED**.

SO ORDERED AND ADJUDGED this the 27th day of July, 2009.

s/ Louis Guirola, Jr.

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE