

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Phillip Douglas Jacobs, :
 :
Plaintiff : Civil Action 2:09-cv-00282
 :
v. : Judge Marbley
 :
Terry J. Collins, *et al.*, : Magistrate Judge Abel
 :
Defendants :

ORDER

Plaintiff Jacobs, a prisoner incarcerated at the Marion Correctional Institution, brings this action under 42 U.S.C. § 1983 alleging that defendants have interfered with his legal mail. On October 7, 2009, plaintiff filed a notice of appeal from the Court's September 21, 2009 Order dismissing the case because Jacobs had failed to pay the Court's \$350 filing fee.

On July 16, 2009, the Court denied Jacobs' motion to proceed *in forma pauperis* because he was barred by 28 U.S.C. § 1915(g) from proceeding without prepayment of fees and costs. This matter is before the Court on plaintiff's application to proceed *in forma pauperis* on appeal. Because plaintiff Jacobs is barred by 28 U.S.C. § 1915(g) from proceeding without prepayment of fees and costs, the application to proceed *in forma pauperis* on appeal is DENIED.

The Court certifies that there is no arguable factual or legal basis for plaintiff's appeal of the order denying him leave to proceed *in forma pauperis* and the order

dismissing the lawsuit because he failed to pay the \$350 filing fee, that this appeal is frivolous, and that his appeal is not taken in good faith. 28 U.S.C. §1915(a)(3). Accordingly, the application for leave to appeal *in forma pauperis* is DENIED.

s/ Algenon L. Marbley
Algenon L. Marbley, Judge
United States District Court