

United States District Court
Southern District of Texas

ENTERED

January 19, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MARVIN WADDLETON III, §
§
Plaintiff, §
VS. § CIVIL ACTION NO. 2:10-CV-267
§
NORRIS JACKSON, *et al*, §
§
Defendants. §

**ORDER DENYING PLAINTIFF’S APPLICATION
TO PROCEED *IN FORMA PAUPERIS* ON APPEAL**

Pending is Plaintiff’s Application to Proceed *In Forma Pauperis* on Appeal. (D.E. 136). By Order and Final Judgment entered October 24, 2012, this Court dismissed with prejudice Plaintiff’s § 1983 claims challenging strip and visual cavity searches conducted by defendant prison officials. (D.E. 104, 105). On January 22, 2014, by judgment issued as mandate, the Fifth Circuit affirmed the dismissal with prejudice of Plaintiff’s Fourth Amendment claims. (D.E. 123, 124). On June 9, 2014, the United States Supreme Court denied Plaintiff’s petition for a writ of certiorari. (D.E. 126). Despite Final Judgment being entered over three years ago and Plaintiff having exhausted his appeals, Plaintiff persists in filing frivolous post-trial motions.¹

The Court has considered Plaintiff’s Application to Proceed *In Forma Pauperis* on Appeal (D.E. 136) and finds that it is without merit and should be denied. Therefore, Plaintiff’s Application to Proceed *In Forma Pauperis* on Appeal (D.E. 136) is **DENIED**

¹ Motion to File Criminal Complaint (D.E. 127); Motion for Leave of Court (for discovery and a jury trial) (D.E. 129); Motion to Object to Magistrate Denial (D.E. 131).


as this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3) that the appeal is not filed in good faith.

Although this Court certifies that the appeal is not taken in good faith, Plaintiff may challenge this finding by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within thirty (30) days of this Order. FED. R. APP. P. 24(a)(5). The cost to file a motion to proceed *in forma pauperis* on appeal with the Fifth Circuit is calculated below, and if Plaintiff moves to proceed on appeal *in forma pauperis*, the prison authorities will be directed to collect the fees as calculated in this Order.

Plaintiff shall pay **\$505.00** for the appellate filing fee in monthly installments to the United States District Court as provided in 28 U.S.C. § 1915(b)(1). The Texas Department of Criminal Justice–Correctional Institutions Division shall deduct 20% of each deposit made to Plaintiff’s inmate trust account and forward payments to the United States District Court on a regular basis provided that the account exceeds \$10.00. Plaintiff shall sign all consents and other documents required by the agency having custody of Plaintiff to authorize the necessary withdrawal from Plaintiff’s inmate trust account.

If Plaintiff moves to proceed on appeal *in forma pauperis*, the clerk shall mail a copy of this Order to the **Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629** and to **TDCJ - Office of the General Counsel, P.O. Box 13084, Capitol Station, Austin, Texas 78711.**

ORDERED this 19th day of January, 2016.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE