

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

Plaintiff

v.

Civil Action No. 2:07-0329

DAILY GAZETTE COMPANY and
MEDIANEWS GROUP, INC.

Defendants

MEMORANDUM OPINION AND ORDER
AND STATEMENT OF REASONS

On April 14, 2010, the court received a "MOTION[s] FOR RELIEF OF JUDGEMENT [sic] UNDER RULE 60 B . . . FOR JUDGE RECUSAL UNDER 28 USC 455 . . . [and] TO INTERVENE AS DEFENDANTS UNDER RULE 24". The motion was putatively signed by Jonathan Lee Riches and Bernard L. Madoff. A third, indecipherable signature appeared over a block for defendant Daily Gazette Company.¹ The motions were sent from the Federal Medical Center in Lexington, Kentucky, in an envelope bearing the return address of "Jonathan Lee Riches." The court presently has under consideration whether

¹Defendant Daily Gazette Company is represented by counsel. The names and signatures of counsel appear nowhere on the motion.

to permit the movant(s) to appeal in forma pauperis pursuant to Federal Rule of Appellate Procedure 24.

The motion, while difficult to decipher, appears to seek intervention and relief from judgment pursuant to Rule 60(b). Judgment has not been entered in the case.² Additionally, no basis was stated for intervention. The substance of the motion readily reflected its frivolity. While the court considered striking the filing as a fugitive document, it chose instead, on April 14, 2010, to deny relief on the merits in an order noting no basis was stated for intervention.

On April 22, 2010, a movant purporting to be Bernard Madoff noticed an appeal. The notice states pertinently as follows:

[T]he plaintiffs continue to illegally use Defendant Jonathan Lee Riches copyrighted name and continue to defame the reputation of Jonathan Lee Riches. The United States of America illegally indicted Jonathan Lee Riches in the Southern District of Texas . . . and Riches is accused of stealing millions of dollars in a Ponzi scheme and was featured on a CNN documentary title[d] "CNN Presents: How to Rob a Bank." I have the transcripts and photographs. I pray and appeal this case.

(Not. of App. at 1).

²The movant(s) appear to suggest the undersigned should have recused pursuant to 28 U.S.C. § 455. The motion in no way specifies why recusal was warranted.

Federal Rule of Appellate Procedure 24 governs plaintiff's ability to proceed in forma pauperis and provides pertinently as follows:

[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.

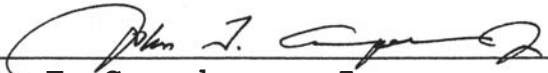
(2) Action on the Motion. If the district court grants the motion, the party may proceed on appeal without prepaying or giving security for fees and costs, unless a statute provides otherwise. If the district court denies the motion, it must state its reasons in writing.

Fed. R. App. Proc. 24(a)(1) and (2).

The movant(s) have not satisfied the requirements of Rule 24(a)(1). Additionally, the court finds, and certifies, that the movant(s)' appeal is frivolous and the product of a bad-faith intention to engage in vexatious litigation practices . Accordingly, the Court DENIES movant(s) leave to appeal in forma pauperis.

The court DIRECTS the Clerk to transmit a copy of this memorandum opinion and order and statement of reasons to the Clerk of the United States Court of Appeals for the Fourth Circuit, counsel of record, and any unrepresented party.

DATED: May 6, 2010



John T. Copenhaver, Jr.
United States District Judge