



**AUTONOMOUS ALMAURIKANOS REPUBLIC FEDERAL GOVERNMENT
THRONATEESKA TERRITORY, ALMOROC, ATLANTIS**

In the Supreme Court of the United States

APPENDIX

**On Petition for a Common Law Writ of Certiorari
from the Circuit Court of Appeals for the Eleventh Circuit
Presiding Judge(s) Martin and Tjoflat, Case No. 19-12880-E**

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Circuit Court Order

A

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-12880-E

TZEDKIYAH EL BEY,

Plaintiff - Appellant,

versus

**WILLIE WEAVER,
GREGORY WILLIAMS,
JOHN DOE,
Albany Police Chief,
JOHN DOE,
Albany Police Officer,**

Defendants - Appellees.

Appeal from the United States District Court
for the Middle District of Georgia

ENTRY OF DISMISSAL: Pursuant to the 11th Cir.R.42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Tzedkiyah El Bey has failed to pay the filing and docketing fees to the district court within the time fixed by the rules., effective January 28, 2020.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

by: Gloria M. Powell, E, Deputy Clerk

FOR THE COURT - BY DIRECTION

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

January 28, 2020

Clerk - Middle District of Georgia
U.S. District Court
201 W BROAD AVE
ALBANY, GA 31701

Appeal Number: 19-12880-E
Case Style: Tzedkiyah Bey v. Willie Weaver, et al
District Court Docket No: 1:19-cv-00085-LAG

The enclosed copy of the Clerk's Entry of Dismissal for failure to prosecute in the above referenced appeal is issued as the mandate of this court. See 11th Cir. R. 41-4.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Gloria M. Powell, E
Phone #: (404) 335-6184

Enclosure(s)

DIS-2 Letter and Entry of Dismissal

Circuit Court Denial of Reconsideration

A2

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

January 07, 2020

Tzedkiyah El Bey
717 W 1ST AVE
ALBANY, GA 31701

Appeal Number: 19-12880-E
Case Style: Tzedkiyah Bey v. Willie Weaver, et al
District Court Docket No: 1:19-cv-00085-LAG

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause.

The enclosed order has been ENTERED.

Pursuant to Eleventh Circuit Rule 42-1(b) you are hereby notified that upon expiration of fourteen (14) days from this date, this appeal will be dismissed by the clerk without further notice unless you pay to the DISTRICT COURT clerk the docketing and filing fees, with notice to this office.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Gloria M. Powell, E
Phone #: (404) 335-6184

MOT-2 Notice of Court Action

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-12880-E

TZEDKIYAH EL BEY,

Plaintiff-Appellant,

versus

WILLIE WEAVER,
GREGORY WILLIAMS,
JOHN DOE,
Albany Police Chief,
JOHN DOE,
Albany Police Officer,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Georgia

Before: MARTIN and TJOFLAT, Circuit Judges.

BY THE COURT:

Tzedkiyah El Bey has filed a motion for reconsideration, pursuant to 11th Cir. R. 27-2, of this Court's November 21, 2019, order denying his motion for leave to proceed *in forma pauperis* in his appeal of the district court's order dismissing his *pro se* civil complaint without prejudice. Upon review, Bey's motion for reconsideration is DENIED because he has offered no new evidence or arguments of merit to warrant relief.

District Court Order

B

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

TZEDKIYAH EL BEY, :
Plaintiff, :
v. : CASE NO.: 1:19-CV-085 (LAG)
WILIE WEAVER, *et al.*, :
Defendants. :

ORDER

Before the Court is *pro se* Plaintiff Tzedkiyah El Bey's Amended Motion for Leave to Proceed *in forma pauperis* (IFP) (Doc. 5). Plaintiff initiated this action on May 29, 2019, seeking leave to proceed IFP. (Docs. 1, 2.) On June 17, 2019, the Court granted Plaintiff leave to file an amended motion to proceed IFP, noting that Plaintiff had failed to provide sufficient detail for the Court to determine his ability to pay court costs. Plaintiff's Amended Motion similarly fails.

Pursuant to 28 U.S.C. § 1915, the Court “may authorize the commencement . . . of any suit, action, or proceeding . . . without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such [litigant] possesses that the person is unable to pay such fees or give security therefor.”¹ While a plaintiff need not demonstrate absolute destitution to proceed IFP, “something more than mere statement and an affidavit that a man is ‘poor’ should be required before a claimant is allowed to proceed in forma pauperis.” *Levy v. Federated Dept. Stores*, 607 F. Supp. 32, 34 (S.D. Fla. 1984). The affidavit required by the statute must show an inability to prepay fees and costs without foregoing the basic necessities of life. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

¹ “[T]he affidavit requirement applies to all persons requesting leave to proceed [*in forma pauperis*].” *Martinez v. Kristi Kleeners, Inc.*, 364 F.3d 1305, 1306 n.1 (11th Cir. 2004).

In his original IFP application, Plaintiff failed to detail his income, expenses, or assets. (Doc. 2 at 3-4.) In his amended application, Plaintiff reported that he has no income, no expenses, and no assets. (Doc. 5.) Plaintiff again reported that he does not have “silver, or, gold to pay the court debt.” (Doc. 5-1 at 3.) Finally, Plaintiff represents that he “has provided all the information lawfully to be provided.” (*Id.* at 2.) Because Plaintiff failed to provide any additional information in his amended IFP application, the Court still cannot determine his ability to pay. Accordingly, Plaintiff’s Motions to Proceed IFP (Docs. 2, 5) are **DENIED**. Plaintiff’s Complaint is **DISMISSED** without prejudice.

SO ORDERED, this 23rd day of July, 2019.

/s/ Leslie A. Gardner
LESLIE A. GARDNER, JUDGE
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

TZEDKIYAH EL BEY,

*

Plaintiff,

*

v.

Case No. 1:19-cv-85-LAG

*

WILIE WEAVER, et al.

*

Defendants.

*

JUDGMENT

Pursuant to this Court's Order dated July 23, 2019, and for the reasons stated therein, JUDGMENT is hereby entered dismissing this case. Plaintiff shall recover nothing of Defendants.

This 23rd day of July, 2019.

David W. Bunt, Clerk

s/ Gail G. Sellers, Deputy Clerk

District Court Denial of Reconsideration

B2

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

TZEDKIYAH EL BEY,	:	
Plaintiff,	:	
v.	:	Case No. 1:19-CV-085 (LAG)
WILLIE WEAVER, <i>et al.</i> ,	:	
Defendants.	:	

ORDER

Before the Court are Plaintiff Tzedkiyah El Bey's Motion for Reconsideration (Doc. 26) and Motion for Leave to Appeal *in forma pauperis* (IFP) (Doc. 27). For the following reasons, both Motions are **DENIED**.

Plaintiff initiated this action on May 29, 2019, seeking leave to proceed *in forma pauperis* (IFP). (Docs. 1, 2.) On June 17, 2019, the Court granted Plaintiff leave to file an amended motion to proceed IFP, noting that Plaintiff had failed to provide sufficient detail for the Court to determine his ability to pay court costs. (Doc. 4.) On June 25, 2019, Plaintiff filed an Amended Motion to Proceed IFP. (Doc. 5.) Plaintiff's Amended Motion similarly failed. (Doc. 10 at 2.) The Court denied the Amended Motion and Dismissed Plaintiff's Complaint without prejudice. (*Id.*) On July 23, 2019, the Court entered judgment, dismissing Plaintiff's case. (Doc. 11.) On July 30, 2019, Plaintiff filed a Notice of Appeal to the Eleventh Circuit. (Doc. 17.) On September 3, 2019, the Eleventh Circuit dismissed the appeal "for want of prosecution . . ." (Doc. 21.) Plaintiff filed a Motion for leave to appeal IFP in this Court on September 9, 2019. (Doc. 22.) Because Plaintiff's appeal had been dismissed and there was no further action pending in the Eleventh Circuit at the time, the Court denied Plaintiff's Motion. (Doc. 23.) On September 25, 2019, the Eleventh Circuit reinstated the appeal and gave Plaintiff fourteen days "to file a notice with the Clerk specifying which motions mooted by the dismissal of this appeal are to be renewed." (Doc. 24.) Plaintiff filed such Notice on

September 30, 2019. *Tzedkiyah El Bey v. Weaver et al.*, No. 19-12880 (11th Cir. Sept. 30, 2019). On November 21, 2019, the Eleventh Circuit denied Plaintiff's motion for leave to proceed on appeal IFP as frivolous. (Doc. 25.) On December 3, 2019, Plaintiff filed the present Motion for Reconsideration and Motion for Leave to Appeal IFP. (Docs. 26, 27.) On December 6, 2019, Plaintiff filed in the Eleventh Circuit a "Motion for reconsideration of single judge's order entered on November 21, 2019." *Tzedkiyah El Bey v. Weaver et al.*, No. 19-12880 (11th Cir. Dec. 6, 2019).

The Motions for Reconsideration and Leave to Appeal IFP seek to resolve the same question presented in the motion currently pending before the Eleventh Circuit. The Court "lacks jurisdiction to consider a motion that is inextricably intertwined with issues addressed in orders that are the subject of a pending appeal." *Carter v. Mark I. Grumet Revocable Trust Dated May 9, 2007*, 2018 WL 7954546, *1 (S.D. Fla. June 8, 2018) (citing *RES-GA Cobblestone, LLC v. Black Constr. & Dev., LLC*, 718 F.3d 1308, 1314 (11th Cir. 2013)). Accordingly, as the Court lacks jurisdiction to consider these motions, Plaintiff's Motion for Reconsideration (Doc. 26) and Motion for Leave to Appeal IFP (Doc. 27) are **DENIED**.

SO ORDERED, this 17th day of December, 2019.

/s/ Leslie A. Gardner
LESLIE A. GARDNER, JUDGE
UNITED STATES DISTRICT COURT

**Additional material
from this filing is
available in the
Clerk's Office.**