



**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) Rosenbaum, Branch, and Grant, Case No. 19-12906-F**

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Circuit Court Order

A

**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

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December 23, 2019

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

Appeal Number: 19-12906-F
Case Style: Tzedkiyah Bey v. Dougherty County State Court, et al
District Court Docket No: 1:19-cv-00119-LAG

The enclosed copy of this Court's Order of Dismissal is issued as the mandate of this court. See 11th Cir. R. 41-4. Counsel and pro se parties are advised that pursuant to 11th Cir. R. 27-2, "a motion to reconsider, vacate, or modify an order must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing."

All pending motions are now rendered moot in light of the attached order.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Dionne S. Young, F/csg.
Phone #: (404) 335-6224

Enclosure(s)

DIS-4 Multi-purpose dismissal letter

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-12906-F

TZEDKIYAH EL BEY,

Plaintiff-Appellant,

versus

DOUGHERTY COUNTY STATE COURT,
ALBANY POLICE DEPARTMENT,
DOUGHERTY COUNTY DRUG UNIT,
DOUGHERTY COUNTY POLICE DEPARTMENT,
STEPHENSON,
TAB HUNTER,

Defendants-Appellees.

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

Before: ROSENBAUM, BRANCH, and GRANT, Circuit Judges.

BY THE COURT:

This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. Tzedkiyah El Bey appeals from the district court's July 23, 2019, order directing him to file a second motion for leave to proceed *in forma pauperis* ("IFP"). In the order, the district court stated that it could not determine whether El Bey could pay court costs because he failed to list his income, assets, and expenses. It directed him to file a second IFP motion within 14 days and stated that a failure to do so would result in a denial of his original IFP motion. After El Bey filed the instant notice of

appeal, the district court, in an October 24, 2019, order, denied the IFP motion and dismissed the action without prejudice.

The denial of leave to proceed IFP is, generally, immediately appealable prior to a final judgment under the collateral order doctrine. *Holt v. Ford*, 862 F.2d 850, 854 n.8 (11th Cir. 1989) (*en banc*) (noting that, if IFP status is denied, “an indigent litigant is barred from proceeding at all in district court,” rendering the denial effectively unreviewable on appeal from a final judgment); *Plaintiff A v. Schair*, 744 F.3d 1247, 1252 (11th Cir. 2014) (stating that, under the collateral order doctrine, an order is immediately appealable if it conclusively settles a disputed question that is separate from the merits and effectively unreviewable on appeal from a final judgment). However, the July 23, 2019, order that El Bey appeals did not conclusively deny him IFP status, and thus, it is not immediately appealable as an order denying leave to proceed IFP, as the court could not determine whether he was entitled to proceed IFP and it subsequently denied the IFP motion when it dismissed the action. See *Plaintiff A v. Schair*, 744 F.3d at 1252. The notice of appeal is not effective to appeal the subsequent October 24, 2019, denial of El Bey’s IFP motion, because the notice of appeal was filed before the district court rendered that decision. See Fed. R. App. P. 3(c)(1)(B); *Bogle v. Orange Cty. Bd. of Cty. Comm’rs*, 162 F.3d 653, 661 (11th Cir. 1998) (stating that, under Rule 3(c), a notice of appeal must designate an existent judgment or order, not one that is merely expected or within the appellant’s contemplation when the notice of appeal is filed). Further, the October 24 denial of his IFP motion was not effective to cure the premature notice of appeal. See *Robinson v. Tanner*, 798 F.2d 1378, 1385 (11th Cir. 1986).

Any pending motions are DENIED as MOOT. No motion for reconsideration may be filed unless it complies with the timing and other requirements of 11th Cir. R. 27-2 and all other applicable rules.

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-119 (LAG)

DOUGHERTY COUNTY STATE COURT,

et al.,

Defendants.

ORDER

Before the Court is *pro se* Plaintiff Tzedkiyah El Bey's Motion for Permission to Appeal *in Forma Pauperis* (IFP) (Motion) (Doc. 13). Plaintiff initiated this action on July 11, 2019, filing a pleading styled "Action for Redress at law Statement of Complaint and a Notice of Removal." (Doc. 1.) That same day, Plaintiff filed a motion seeking leave to proceed IFP. (Doc. 2.) Because Plaintiff failed to provide sufficient detail for the Court to determine his ability to pay court costs, the Court ordered Plaintiff to file an amended motion to proceed IFP on July 23, 2019. (Doc. 8.) Rather than filing an amended motion for leave to proceed IFP, Plaintiff filed a Notice to Reconsider and Response on July 31, 2019, which the Court construed as a Motion to Reconsider. (Doc. 9.) Also on July 31, 2019, Plaintiff filed a notice of interlocutory appeal, seeking review of the Court's denial of his request to proceed IFP. (Doc. 10.) Plaintiff filed the instant Motion on September 9, 2019. (Doc. 13.) On October 24, 2019, the Court denied the Motion to Reconsider and denied Plaintiff leave to proceed IFP for failure to comply with the Court's Order and dismissed this action. (Doc. 14.)

Plaintiff's Motion to Appeal IFP is governed by 28 U.S.C. § 1915 and by Federal Rule of Appellate Procedure 24. *Appleton v. Intergraph Corp.*, 2008 WL 4831746, at *1 (M.D. Ga. Nov. 3, 2008). Section 1915(a)(3) provides that an "appeal may not be taken *in forma pauperis*

if the trial court certifies in writing that [the appeal] is not taken in good faith.” “[G]ood faith’ . . . must be judged by an objective standard.” *Coppedge v. United States*, 369 U.S. 438, 445 (1962). The plaintiff demonstrates good faith when he seeks review of a non-frivolous issue. *Id.*; see also *Morris v. Ross*, 663 F.2d 1032, 1033 (11th Cir. 1981). An issue “is frivolous if it is ‘without arguable merit either in law or fact.’” *Napier v. Preslicka*, 314 F.3d 528, 531 (11th Cir. 2002). “Arguable means being capable of being convincingly argued.” *Sun v. Forrester*, 939 F.2d 924, 925 (11th Cir. 1991) (per curiam) (citation and internal quotation marks omitted); *Carroll v. Gross*, 984 F.2d 392, 393 (11th Cir. 1993) (per curiam) (“[A] case is frivolous . . . when it appears the plaintiff ‘has little or no chance of success.’” (citations omitted)). “In deciding whether an IFP appeal is frivolous, a district court determines whether there is ‘a factual and legal basis, of constitutional dimension, for the asserted wrong, however inartfully pleaded.’” *Sun*, 939 F.2d at 925 (citations omitted).

Here, the Court concludes that Plaintiff cannot proceed IFP because his appeal is not taken in good faith. Plaintiff failed to complete, in an appropriate manner, the affidavit required by statute. Plaintiff further failed to file an amended affidavit as ordered by the Court. Plaintiff’s appeal does not have arguable merit and is therefore frivolous. Accordingly, Plaintiff’s Motion for Permission to Appeal IFP (Doc. 13) is **DENIED**.

SO ORDERED, this 24th day of October, 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-119 (LAG)

*

DOUGHERTY COUNTY STATE COURT,
et al,

*

Defendants.

*

J U D G M E N T

Pursuant to this Court's Order dated October 24, 2019, and for the reasons stated therein,
JUDGMENT is hereby entered dismissing this case. Plaintiff shall recover nothing of Defendants.

This 24th day of October, 2019.

David W. Bunt, Clerk

s/ M. Danielle Morrow, 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.

DOUGHERTY COUNTY STATE COURT,

et al.,

Defendants.

CASE NO.: 1:19-CV-119 (LAG)

ORDER

Before the Court is *pro se* Plaintiff Tzedkiyah El Bey's Notice to Reconsider to Proceed *in Forma Pauperis* (IFP) (Doc. 22). Therein, Plaintiff requests that the Court reconsider its denial of Plaintiff's motion to appeal IFP. (*Id.* at 1.) The correct procedure for seeking review of an order denying a motion for leave to proceed IFP on appeal is to renew the motion in the appellate court. *See* Fed. R. App. P. 24(a)(5) ("A party may file a motion to proceed on appeal [IFP] in the court of appeals within 30 days" after the district court certifies that the appeal is not taken in good faith); *see also Gomez v. United States*, 245 F.2d 346, 347 (5th Cir. 1957) (indicating that proper procedure is to renew motion for leave to proceed IFP on appeal in the appellate court); *Jackson v. Bank of Am., N.A.*, 2015 WL 6675568, at *3 (M.D. Ga. Nov. 2, 2015) (explaining that, after a motion to appeal IFP is denied, the proper procedure under Rule 24(a)(5) is to file a motion in the appropriate court of appeals). Accordingly, Plaintiff's Motion (Doc. 22) is **DENIED**.

SO ORDERED, this 8th day of January, 2020.

/s/ Leslie A. Gardner

LESLIE A. GARDNER, JUDGE

UNITED STATES DISTRICT COURT

Dougherty County State Court Order

C

IN THE STATE COURT OF DOUGHERTY COUNTY
STATE OF GEORGIA

STATE OF GEORGIA :

v. :

Case #: 19SR813

TZEDKIYAH EL YAHSHARALAH BEY :
f/k/a JAMES RICHARD WARREN, :

Defendant. :

**ORDER DENYING DEFENDANT'S MOTIONS TO STRIKE OR DISMISS CASE
BASED ON COURT'S PURPORTED LACK OF JURISDICTION
AND
ORDER DENYING DEFENDANT'S RIGHT TO SEEK DISCOVERY
DIRECTLY FROM THIS COURT**

This case comes before the Court on defendant's various challenges to this Court's jurisdiction to try this matter and various motions seeking sanctions or damages from this Court for failing to respond to discovery requests directed to this Court in the State's prosecution for two traffic offenses. The case arises out of two traffic citations issued to defendant by Officer A. Parker of the Albany Dougherty Drug Unit for driving on a suspended license and failure to maintain brake lights in good working condition. From this Court review of the two citations, it appears they were issued against this defendant on May 22, 2019.

At some point thereafter, it appears this defendant attempted to remove this traffic matter to the United States District Court for the Middle District of Georgia, alleging he is a "Maur/Moor/Maur" and a citizen of the "Autonomous Almaurikanos Republic Federal Government, Thronateeska Territory, Almoroc, Atlantis." Said action was assigned U.S. District Court case number 1:19-cv-00119-LAG. While this Court cannot be sure it has received all filings made by this defendant in the U.S. District Court for the Middle District of Georgia, it appears

FILED
2019 NOV -6 AM 11:07
EYONNE S. MULL
DOUGHERTY COUNTY
CLERK OF COURTS

from copies of filings mailed to this Court that defendant's action in the U.S. District Court was dismissed without prejudice on or about October 24, 2019, and his attempts to appeal said decision in forma pauperis have been denied.

As for defendant's complaints that this Court has failed to respond to "discovery demands or requests" served on it, the Court notes it is not a party to the State's prosecution of these two traffic offenses against defendant and, thus, has no obligation to produce any documents to either the State or to the defendant. Defendant has cited no law or statute which requires this Court to provide responses to discovery documents when this Court is not a party to an action, either civil or criminal. Requests for production designated as sent through either the Federal Rules of Civil Procedure or through the Georgia Civil Practice Act have no applicability in this prosecution for two traffic offenses. Defendant is free to seek appropriate discovery from the State through normal discovery procedures as set forth in O.C.G.A. § 17-16-20 – O.C.G.A. § 17-16-23, appropriate in criminal or traffic cases. Copies of the undersigned's oath and similar such documents are public documents held in the Probate Court of Dougherty County and are accessible to all. Accordingly, any and all motions filed in this matter by defendant relating to discovery directly served on the State Court of Dougherty County are hereby **DENIED**.

The Court understands defendant's various arguments can be summarized as asserting this Court lacks jurisdiction over his person because he is a "sovereign citizen" who does not recognize the State of Georgia, which he asserts is a "legal fiction." He argues his due process rights would be violated by this Court trying his two traffic offenses because the State of Georgia cannot legally bring a criminal case against him in this Court for exercising his alleged "right to travel freely unencumbered." His written argument is difficult to follow at points, as defendant cites unknown treaties that having no bearing on any misdemeanor prosecution for traffic offenses which occur

within the jurisdictional limits of Dougherty County. He appears to argue because purportedly no one was "harmed" by his alleged infractions of Georgia's Motor Vehicle Laws that no crime or violation of these laws could have been committed. He argues having his case heard by this Court would violate his due process rights without providing a reason for why a trial in which the State is required to prove his guilt beyond a reasonable doubt violates recognizable due process rights under either the federal or state constitutions. The essentials elements of due process are notice and an opportunity to defend, both of which are being afforded to him. He appears to argue the State has no authority to require him to have a driver's license to operate a vehicle on the roads of this State and law enforcement personnel have no authority to issue traffic tickets and to stop/prevent unlicensed drivers from operating vehicles on the roads of this State, as requiring him to have a valid license would force him to enter into a "penal contract." He seems to be challenging without basis or legal authority the Uniform Traffic Citations issued against him. He seems to be asserting his "right to travel freely unencumbered" is being violated in this instance by traffic citations having been issued against him, impairing his "livelihood" and "his ability to properly provide for his family."

The State Court of Dougherty County has jurisdiction to preside over misdemeanors like driving on a suspended license and failure to maintain brake lights in good working condition. O.C.G.A. §§ 15-7-4(a)(1), 40-5-121, 40-8-26 and 40-6-124 (b).

This defendant is not the first person – and likely not the last -- to try to avoid the merits of a legal proceeding by claiming that a Court is addressing a legal fiction (here the State of Georgia) rather than an entity which may assert and enforce the laws within its jurisdictional limits (the boundaries of the State of Georgia). No Court has accepted this argument. See Brown v. State, 346 Ga. App. 245 (2018), in which the Georgia Court of Appeals held:

CERTIFICATE OF SERVICE

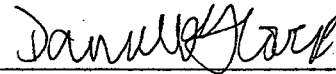
I do hereby certify that I have served on all parties to this litigation a true and correct copy of the foregoing pleading in a method and manner consistent with O.C.G.A. § 9-11-5 via United States mail and/or Electronic service to:

Cheslyn Green, Esq.
Assistant District Attorney
(hand delivery)

And

Tzedkiyah A. Bey
717 West First Avenue
Albany, Georgia 31701

Respectfully submitted this 6th day of November, 2019.



Danielle N. Glover
Staff Attorney
Dougherty State Court

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