

**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  
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November 22, 2019

William Harold Wright Jr.  
USP Lompoc - Inmate Legal Mail  
3901 KLEIN BLVD  
LOMPOC, CA 93436

Appeal Number: 19-12493-D  
Case Style: USA v. William Wright, Jr.  
District Court Docket No: 8:16-cr-00422-JDW-MAP-1

**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: Scott O'Neal, D  
Phone #: (404) 335-6189

MOT-2 Notice of Court Action

e.g., "APPENDIX A"

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

No. 19-12493-D

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIAM HAROLD WRIGHT, JR.,  
a.k.a. William Wright,  
a.k.a. Flat Top,

Defendant-Appellant.

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

ORDER:

William Wright, Jr.'s motion for leave to proceed on appeal *in forma pauperis* is DENIED because the appeal is frivolous. *See Ellis v. United States*, 356 U.S. 674, 674-75 (1958). Wright's motions for appointment of counsel, to consolidate his appeals, and to remand to the district court also are DENIED.

  
UNITED STATES CIRCUIT JUDGE

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

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

David J. Smith  
Clerk of Court

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March 02, 2020

Clerk - Middle District of Florida  
U.S. District Court  
801 N FLORIDA AVE  
TAMPA, FL 33602-3849

Appeal Number: 19-12493-D  
Case Style: USA v. William Wright, Jr.  
District Court Docket No: 8:16-cr-00422-JDW-MAP-1

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: Scott O'Neal, D  
Phone #: (404) 335-6189

Enclosure(s)

DIS-2 Letter and Entry of Dismissal

e.g., "Appendix A"

Exhibit - E

20FA

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 19-12493-D

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

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WILLIAM HAROLD WRIGHT, JR.,  
a.k.a. William Wright,  
a.k.a. Flat Top,

Defendant - Appellant.

---

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

---

ENTRY OF DISMISSAL: Pursuant to the 11th Cir.R.42-1(b), this appeal is DISMISSED for want of prosecution because the appellant William Harold Wright, Jr. has failed to pay the filing and docketing fees to the district court within the time fixed by the rules., effective March 02, 2020.

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

by: Scott O'Neal, D, Deputy Clerk

FOR THE COURT - BY DIRECTION

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT  
UNITED STATES OF AMERICA

Plaintiff/Appellee

V.

WILLIAM WRIGHT, JR.

Defendant/Appellant

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA

MOTION TO RECONSIDER

---

WILLIAM HAROLD WRIGHT, JR.  
3901 Klein Blvd  
LOMPOC CA, 93436  
Pro -Se Litigant

Amended

United States V. William Wright, Jr.  
No. 19-12493-D

**Certificate of Interested Persons  
and Corporate Disclosure Statement**

Appellant William Wright, Jr. files this Certificate of Interested Person Corporate Disclosure Statement, listing the parties and entities interested in this appeal, as require

Kevin T. Beck, Esq.

Bently, A Lee, 111 former United States Attorney

Thomas J. Butler, Esq.

Candela Anthony, M., Esq.

Charlie Dustin Connally, Esq.

Gershaw, Holly L., Assistant State Attorney

David Chirtopher Hardy, Esq.

Lopez, Maria Chapa, United States Attorney

U.S. Magistrate Judge Mark A. Pizzo

James C. Preston, AUSA

Rhodes, David P., Assistant United States Attorney,  
Chief, Appellate Division

Sansone, Hon, Amanda Arnold, United States Magistrate Judge

United States of America- Plaintiff/Appellee

U.s. Dist. Judge James D. Whittemore

William Wright, Jr.

In addition to the persons and entities identified in the Certificate of Interested Persons and Corporate Disclosure Statement in William Wright, Jr.'s, principle brief, the following person have an interest in the outcome of this case:

U.S. Magistrate Judge Flynn P. Sean

Come now, defendant in the above entitle action William Wright, Jr. moves this Honorable Court to reconsider the denial of his in forma pauperis motion.

Generally, courts have recognize three grounds which justify the reconsideration of an order:(1) intervening change in controlling law;(2) the availability of new evidence; and(3) the need to correct clear error or manifest injutice. Summit Medical center of Alabama, Inc. V. Riley, 284 F. Supp. 2d 1350, 1355 (M.D. Alabama 2003).

Wright motion rest on the alleged need to correct clear error or manifest injustice. Rule 24 the Federal Rule of Appellate Procedure and 28 U.S.C. § 1915 govern the determination of application to proceed in forma pauperis on appeal. See Ex-Parte Chayoon No. 6:06-cv-1812-orl-19 JGG, 2007 U.S. Dist.Lexis 26561, 2007 WL 109908 (MD. Fla. Apr.10 2007).

Rule 24(a)(3)(A) which clearly states, the distict court-before or after the notice of appeal is filed-certifies that the appeal is not taken in good faith or finds the the party is not otherwise entitle to proceed in in froma pauperis and states in writing its reason for the certification or finding.

Wright asserts that the court is not in compliance with Rule 24(a)(3)(A) because wright have not received the reason of finding in writing for the denial of his motion.

The district court reasoning of finding for denial of Wright in forma pauperis motion [Dkt308] states, "thereafter defendant's appeal was dismissed for want of prosecution [Dkt 307]. consequently, the dismissal of the appeal render defendant's motion moot" the district court did not make a finding that the appeal was frivolous.

The appeal was dismissed because the district court alleged that it mistakenly misplace the Transcript Information form, which provoked the dismissal of this appeal.

Defendant asserts that it is obvious that the court have not review the record or the motions in this appeal. Defendant pretrial motions clearly states that (SA) Nowak perjured him self in a grand jury proceeding to indict, and lied in his affidavit to establish proable cause to arrest appellant, and pointed to the record to support these allegation. Wright also asserted in his motion to remand, that the court erred dismissing Wright motion alleging prosecutorial misconduct without a hearing, dismissal is justified when assuming the factual allegation pleaded by the defendant to be true (or finding them fully refuted by the record and files) it conclusively stated, appear that he would not be entitle to relief.

Conversely stated, where defendant allegation if prove would entitle him to relief, he is entitle to an evidentiary hearing and an opportunity to prove the truth of the matter asserted. See Romero V. United States 5th Cir. 1964 327 F.2d 711. Evidentiary hearing must be held on prosecutorial misconduct motion [un]less the motion and the files and record of the case conclusively show that



the defendant is entitle to no relief. See Aron V. United States , 291 F.3d 708, 714 n. (5th Cir. 2002) [i]f the defendant alleged facts that is true, would entitle him relief then the district court should order an evidentiary hearing and rule on the merit of his claim. "Aron, 291 F.3d at 714-715 (internal quotation mark omitted) See Fernadez, 136 F.3d 1434, 438-39 (11th Cir. 1998), the record clealy show that Wright have arguable merit and facts.

Unless the issues raised by indigent seeking leave to appeal in forma pauperis are so frivolous that the appeal would be dismissed in the case of a nonindigent litigant under Rule 39(a) of the Federal Rule of Criminal Procedure, the request of an indigent for leave to appeal in forma pauperis must be allowed, in order to assure equality of consideration for all litigant. See Coppedge V. United States, 369 U.S 438 455, 82 S. Ct. 917, 8 L E.2d 21 (1962).

It is not the burden of one seeking leave to appeal in forma pauperis from a conviction of crime in a federal court to show that his appeal has merit in the sense that he is bound, or even likely, to prevail ultimately; he is to be heard, as is any criminal appellant, if he makes a rational argument on law or the facts. See Coppedge V. United States, 369 U.S 438 455, 82 S. Ct. 917, 8 L E. 2d 21 (1962).

If the practice of a Federal Court of Appeals is to screen paid appeal on its docket for frivolity, without hearing oral argument, reviewing a record of the trial proceeding, or considering full briefs, paupers can be bound by the same rules; but if the

practice of the court of Appeal is to defer ruling on motion to dismiss paid appeal until the court has had the benefits of hearing argument and considering briefs and adequate record, it must accord the poor person the same procedural rights. See Bush V. County of Volusia, 189 F.R.D. 678, 691 (M.D. Fla. 1999) also Coppedge V. United States, 369 U.S. 438 455, 82 S. Ct. 917, 8 L E.2d 21 (1962).

The government has the burden, in opposing an application for leave to appeal a federal criminal conviction in forma pauperis, to show that the appeal is so lacking in merit that the court would dismiss the case on the government's motion if the case had been docketed and a record had been filed by an appellant able to afford the expense of complying with such requirements.

In assessing the legal sufficiency of a complaint, the customary standard has been stated by the Supreme Court in Conley V. Gibson, 1957, 355 U.S. 41, 78 S. Ct. 99 2 L Ed.2d 80. to require that:

A in forma pauperis application should not be dismissed as frivolous unless it appears beyond doubt that plaintiff can prove no set of facts in support of his claim which would entitle him to relief, 355 U.S. 45-46 78 S. Ct. at 102, 2 L Ed.2d at 84. Haines V. Kerner, 1972, 404 U.S. 519, 92 S. Ct. 594, 30 L. Ed.2d 652, the court placed a gloss on ordinary notice pleading concept by holding that a pro-se prisoner complaint is govern by "less stringent standard than formal pleading drafted by lawyers. 404 U.S. at 520, 92 S. Ct. at 596, 30 L Ed.2d at 654. This Circuit has

explicitly applied this broader standard to prisoner suits. Campbell V. Beto Supra; Demps V. Wainwright, 5th Cir., 1975. 522 F.2d 192; Gamble V. Estelle, 5th Cir., 1975, 516 F.2d 937.

#### MEMORANDUM OF LAW

An appeal may not be taken in forma pauperis if the trial court certifies, either before or after the of appeal is filed, that the appeal is not taken in good faith. 28 U.S.C. § 1915 (a)(3); Fed.R.App.P. 24(a)(3). A party demonstrates good faith by seeking appellate review of any issue that is not frivolous when judge under an objective standard. See Coppedge V. United states, 369 U.S. 438, 455 82 S. Ct. 917, 8 L. Ed.2d 21(1962); Bush V. County of Volusia, 189 F.R.D. 678, 691 (M.D. Fla 1999); United States V. Wilson, 707 F.Supp. 1582, 1583 (M.D Ga. 1989), aff'd., 896 F.2d 558 (11th Cir. 1990). An issue is frivolous when it appears that the legal theories are "indisputably meritless. See Nitzke V. Williams, 490 U.S. 319, 327, 109 S. Ct. 18 27, 104 L. E.2d 338 (1989); Carroll V. Gross, 984 F.2d 392, 393 (11th Cir. 1993). Or, stated another way, an in forma pauperis action is frivolous, and thus not brought in good faith, if it is "without arguable merit either in law or fact." Napier V. Preslicka, 314 F.3d 528, 531 (11th Cir. 2002); Bilal V. Driver, 251 F.3d 1346, 1349 (11th Cir. 2001). "arguable means capable of being convincingly argued." Sun V. Forrestes, 939 F2.d 924, 925(11th Cir. 1991)(per curiam). Where a claim is aruable, but ultimately will be unsuccessful, it should be allowed to proceed. See Cofield V. Alabama Pub. serv. Comm'n ., 936 F.2d 512, 515 (11th Cir. 1991).

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Wright argues that he raised, a colorable meritorious claim on this appeal, which is definitely, convincingly arguable.

Wright also asserts that his appeal run on all fours with Coppedge V. United States, 369 U.S. 438, 455 82 S. Ct. 917, 8 L. Ed.2d 21 (1962).

Wright asserts that the court is deliberately denying Wright access to the court because of his indigency status, because of its erroneous finding of fact.

WHEREFORE Appellant request this Honorable Court to grant leave for Appellant to proceed in forma pauperis, in the interest of justice.

Respectfully submitted.

  
William Harold Wright, Jr.

Filed this 2 nd day of December 2019

Certificate of Sevice

I hereby certify that I have served a true and correct copy of the following by placement in the inmate mail: to AUSA James C. Preston, Attorney office 400 N. Tampa St. Suite 3200 Tampa Fl 33602 and served via mail to COURT OF APPEALS FOR THE ELEVENTH CIRUIT, ELBERT PARR TUTTLE COURT OF APPEALS BUILDING 56 FORSYTH STREET, N.W. Alanta Georgia 30303.

Amended

United States V. William Wright, Jr.  
No. 20-6007

**Certificate of Interested Persons  
and Corporate Disclosure Statement**

Appellant William Wright, Jr. files this Certificate of Interested Person Corporate Disclosure Statement, listing the parties and entities interested in this appeal, as require,

Kevin T. Beck, Esq.

Bently, A Lee, 111 former United States Attorney

Thomas J. Butler, Esq.

Candela Anthony, M., Esq.

Charlie Dustin Connally, Esq.

Gershaw, Holly L., Assistant State Attorney

David Chirtopher Hardy, Esq.

Lopez, Maria Chapa, United States Attorney

U.S. Magistrate Judge Mark A. Pizzo

James C. Preston, AUSA

Rhodes, David P., Assistant United States Attorney,  
Chief, Appellate Division

Sansone, Hon. Amanda Arnold, United States Magistrate Judge

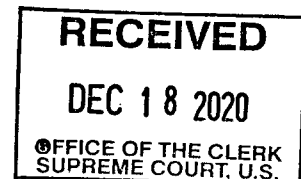
United States of America- Plaintiff/Appellee

U.S. Dist. Judge James D. Whittemore

William Wright, Jr.

In addition to the persons and entities identified in the Certificate of Interested Persons and Corporate Disclosure Statement in William Wright, Jr.'s, principle brief, the following person have an interest in the outcome of this case:

U.S. Magistrate Judge Flynn P. Sean



A handwritten signature or set of initials, possibly "JW", in dark ink, located at the bottom center of the page.

## B. EMERGENCY MOTION

Petitioner moves this Honorable Court for excusable neglect, because of extraordinary circumstances. Petitioner asserts that Petitioner has been attempting to file this petition for the last six months for various reasons.

## STATEMENT OF THE FACTS

First Petitioner like to bring to the Court attention, due to the epidemic LOMPOC FCI is on lockdown. And not allowing any civilian on the property. This facility does not have in house notary, this process is done by outside companies. I have been informed by my counsel that I will not be getting a notary public, do to the circumstances. I also like to inform the Court, that I'm in (SHU) Solitary Confinement with very little legal resource.

## ARGUMENT

Therefore I respectfully request this Court to allow excusable neglect in this cause, because this is not Petitioner own carelessness,

inattention, or willful disregard of the Court's process. This is an unexpected and unavoidable hindrance, this reliance is on the care and vigilance of this facility for this particular process. Petitioner respectfully request that this document be allowed to proceed without being notarized under these extraordinary circumstances, in the interest of Justice.

The Court of Appeals must provide the Petitioner with the assistance of Counsel and a record of sufficient completeness to enable Petitioner to make a showing that the District Court and the Court of Appeals Certificate of lack of good faith is in error and that leave to proceed with the appeal in forma pauperis should be allowed, and should grant leave to proceed in forma pauperis if the Petitioner with the aid afforded him presents for determination any issue that is not clearly frivolous. See *Coppedge v. United States*, 369 U.S. 438, 445 S.2, 3. Ct. 917, 8 L. Ed. 2d 21 (1962).

It is the duty of the United States Supreme Court to assure to the greatest degree possible, within the Statutory Framework for appeals created by Congress, equal treatment for every litigant before the bar.

WHEREFORE petition for writ of mandamus  
should be allow to proceed without being  
notarizes, respectfully requested.

Respectfully Submitted,  
1st W. H. York

### CERTIFICATE OF SERVICE

I Herobly Certify that an original Copy  
of the foregoing has been furnish to the Supreme  
Court of the United States, 1 1st NE Washington  
D.C. 20543-0001 and a Copy to the Solicitor General  
of the United States, Room 5616, Department of  
Justice 950 Pennsylvania Ave. N.W. Washington  
D.C. 20530-0001, by Regular U.S. Mail this 9th day  
of December, 2020.



IN THE  
SUPREME COURT OF THE UNITED STATES

WILLIAM WRIGHT, JR. - PETITIONER

Vs.  
ROSENBAUM et al. - RESPONDENT

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

EMERGENCY MOTION

PETITIONER ASKS LEAVE TO FILE PETITION  
FOR WRIT OF MANDAMUS WITHOUT BEING  
NOTARIZED

WILLIAM HAROLD WRIGHT, JR.  
UNITED STATES PENITENTIARY  
3901 Klein Blvd  
Lompoc CA, 93436

Pro-se/Litigant