

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 21-13927-J

EDWARD SHANE WEST-EL,

Plaintiff - Appellant,

versus

INTERNAL REVENUE SERVICE,
COMMISSIONER OF INTERNAL REVENUE,
DEPARTMENT OF TREASURY INTERNAL REVENUE SERVICE,
FLORIDA ATTORNEY GENERAL,
ATTORNEY GENERAL OF THE UNITED STATES,
ARCHBISHOP OF MIAMI,
Thomas Wenski,

Defendants - Appellees.

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

ORDER:

Edward Shane West-El moves for leave to proceed *in forma pauperis* ("IFP") to appeal from the district court's order dismissing his *pro se* civil complaint for failure to pay the filing fee or move for IFP status in the district court. IFP status should be granted where: (1) the appellant is indigent; and (2) the appeal is not frivolous. See 28 U.S.C. § 1915(e)(2)(B); *Napier v. Preslicka*, 314 F.3d 528, 531 (11th Cir. 2002), *overruled on other grounds by Hoever v. Marks*, 993 F.3d 1353 (11th Cir. 2021).

West-El has submitted a financial affidavit with his IFP motion, which shows that he is not a pauper and is able to pay the appellate filing fee. Accordingly, because he is not indigent, his motion for IFP status is DENIED.

/s/ Kevin C. Newsom
UNITED STATES CIRCUIT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 21-cv-23602-BLOOM/Otazo-Reyes

EDWARD SHANE WEST-EL,

Plaintiff,

v.

INTERNAL REVENUE SERVICE,
CHARLES P. RETTIG,
LOUIS ENCARNACION,
ASHLEY MOODY,
MERRICK B. GARLAND, and
THOMAS WENSKI,

Defendants.

ORDER DENYING LEAVE TO APPEAL
IN FORMA PAUPERIS

THIS CAUSE is before the Court upon Plaintiff's Affidavit of Financial Statement, ECF No. [9] ("Motion"). In the Motion, Plaintiff states that he does not have "any gold or silver coins" and is therefore submitting a "Writ 'In Forma Pauperis.'" *See id.* at 2. The Court has carefully reviewed the Motion, the record in this case, the applicable law, and is otherwise fully advised. For the reasons stated below, the Motion is denied.

Federal Rule of Appellate Procedure 24 provides that

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.

Fed. R. App. P. 24(a)(1).

Upon review of the Motion, the Court concludes that Plaintiff's Motion must be denied for failing to comply with Rule 24. First, Plaintiff fails to identify, in the Motion or in an attached

affidavit, the issues Plaintiff seeks to present on appeal. *See generally* ECF No. [9]. Second, Plaintiff fails to show, in the detail prescribed by Form 4 of the Appendix of Forms, Plaintiff's inability to pay or to give security for fees and costs. Instead, Plaintiff states that he does not have "any gold or silver coins." *Id.* at 2. Plaintiff does not further substantiate his inability to pay. Lastly, Plaintiff does not claim an entitlement to redress. The Motion refers to the U.S. Constitution in an unintelligible manner and states that the Court is bound to "uphold and support the Constitution for the United States Republic." *See id.* at 4. Plaintiff also states that denying the Motion will deprive Plaintiff of "Due Process" and will be a violation of his "secured exercise of a Right." *See id.* at 4. The Court determines that such statements do not constitute a claim of entitlement to redress.

Should Plaintiff wish to proceed with the pending appeal, Plaintiff must pay the filing fee for the pending appeal. Furthermore, the Court directs Plaintiff to Federal Rule of Appellate Procedure 24(a)(5), which states that, upon a district court's denial of an *in forma pauperis* motion, a "party may file a motion to proceed on appeal *in forma pauperis* in the court of appeals within 30 days after service of the notice prescribed in Rule 24(a)(4)." Fed. R. App. P. 24(a)(5). Further, a motion to proceed on appeal *in forma pauperis* "must include a copy of the affidavit filed in the district court and the district court's statement of reasons for its action." *Id.*

Accordingly, it is **ORDERED AND ADJUDGED** that the Motion, ECF No. [9], is **DENIED**.

DONE AND ORDERED in Chambers at Miami, Florida, on November 9, 2021.



BETH BLOOM
UNITED STATES DISTRICT JUDGE

Copies to:

Edward Shane West-El
17701 N.W. 32 Ave
Miami Gardens, FL 33056
PRO SE

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