

IN THE SUPREME COURT OF THE UNITED STATES

JOHNNIE DEMOND JACKSON
~~PROSE PETITIONER~~
VS.

CASE #

23-6603

ORIGINAL

SHERIFF KEVIN R. SPAUL, et. al.,

RESPONDENTS

FILED

JAN 02 2024

PROSE, JOHNNIE DEMOND JACKSONS, MOTION TO PROCEED INFOR OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THIS WRIT OF CERTIORARI

COMES NOW PROSE, JOHNNIE DEMOND JACKSON, by self-representation and hereby files his motion to Proceed Informa Pauperis in this newly filed writ of certiorari and shows this Honorable Court the following: ID at "Appendix Z 2" 2 of 2 pg, shows grounds for Rule 39(1)

1) This Case Proceeded, from the ALBANY DIVISION U.S.D.C in which Granted Leave from Johnnie Demond Jackson to Proceed Informa Pauperis; (case# 1:21-cv-00028-LAG-TPL) ID at Appendix Z 2

2) secondly, this case next came from the 11th Circuit Appellate court case# 22-13577 in which Johnnie Demond Jackson also was granted leave to proceed Informa Pauperis; ID at "Appendix Z 2" 2 of 2 pgs

3) Now, According to Rule 39 (1) Johnnie Demond Jackson hereby files his motion to Proceed Informa Pauperis (due to the foregoing proceedings in which he was granted leave to file Informa Pauperis in the U.S.D.C case# 1:21-cv-00028-LAG-TPL and 11th Cir. Ga. Appellate court case# 22-13577) in this Writ of certiorari.

CONCLUSION

For the foregoing reasons accordingly to Rule 39 (1) of the U.S. Supreme Court the above Plaintiff/Appellant Johnnie Demond Jackson should be Granted Leave to Proceed Informa Pauperis in his Writ of Certiorari.

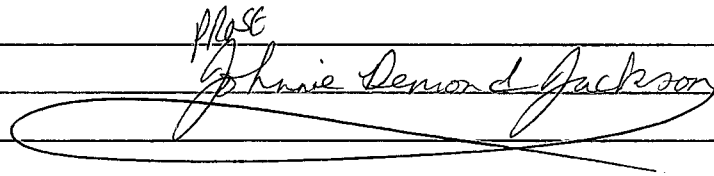
1/2/24

Prose
Johnnie Demond Jackson

AFFIDAVIT TO THE COURT

I hereby Declare Under Penalty ~~OF PERJURY~~ the following:
I have proceeded from the United States District Court Case # 1:21-cv-00028-LAG-TQL, then from Ga. Appeal case # 22-13577, and ~~now~~ to this filing of a Writ of Certiorari in which I have proceeded In Forma Pauperis in both of the above-named cases and hereby accordingly to Rule 39. motion to proceed In Forma Pauperis in this Writ of Certiorari in which I was PROSE STATUS OF RECORD in those two ~~above~~ named cases in which I have procedurally filed accordingly to the Fed. R. Civ. and Appellate procedure and here I am now in the Supreme Court of the United States of America, filing accordingly to Rule 39 (1) my proceeding In Forma Pauperis. ~~That~~ (APPENDIX 2a)

PROSE ADDRESS: JOHNNIE DEMOND JACKSON IO# 22498
D.C.T.F
1302 Evelyn Ave.
ALBANY, GA.
31705

PROSE


Date: 1/2/24

APPENDIX 2

GRANTED IFP on Appeal

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

JOHNNIE DEMOND JACKSON,

Plaintiff,

v.

SHERIFF KEVIN R. SPROUL, *et al.*,

Defendants.

CASE NO.: 1:21-CV-28 (LAG) (TQL)

ORDER

Before the Court are *pro se* Plaintiff Johnnie Demond Jackson's Motion to Appeal *In Forma Pauperis* (IFP) (Doc. 231) and Motion for Appeal Lawyer (Doc. 233). Plaintiff seeks to appeal the Court's September 14, 2022 Order (Doc. 227) adopting the Magistrate Judge's Reports and Recommendations (Docs. 223, 224) and granting summary judgment for Defendants. Plaintiff timely filed a Notice of Appeal on October 10, 2022.¹ (Doc. 229).

Plaintiff asks the Court to appoint counsel for his appeal. (Doc. 233 at 1). Plaintiff asserts that he "has a winning case" and "clear and convincing evidence," but "the case is enormous" and requires the assistance of counsel. (*Id.*). "Appointment of counsel in civil cases is a privilege 'justified only by exceptional circumstances,' not a constitutional right." *Rodriguez v. Burnside*, 38 F.4th 1324, 1335 (11th Cir. 2022) (quoting *Wahl v. McIver*, 773 F.2d 1169, 1174 (11th Cir. 1985)). "Exceptional circumstances exist" when "the facts and legal issues are so novel or complex as to require the assistance of a trained practitioner." *Wimbush v. Conway*, 768 F. App'x 958, 967 (11th Cir. 2019) (per curiam) (quoting *Fowler v. Jones*, 899 F.2d 1088, 1096 (11th Cir. 1990)); *see also DeJesus v. Lewis*, 14 F.4th 1182, 1204–05 (11th Cir. 2021) (citation omitted). Plaintiff has not

¹ Although the Clerk of Court did not receive Plaintiff's Notice of Appeal until October 20, 2022, Plaintiff is incarcerated and filed this Notice *pro se*. (See Doc. 229 at 2). Under the "prison mailbox rule," the Notice of Appeal is considered filed on the date it is signed. *Boatman v. Berreto*, 938 F.3d 1275, 1278 (11th Cir. 2019) (citation omitted).

demonstrated that any exceptional circumstances warrant appointment of counsel in this matter. Plaintiff has adequately “set forth the essential facts underlying his claims” and “the applicable legal doctrines [are] readily apparent.” *See Rodriguez*, 38 F.4th at 1335 (citation omitted). The underlying facts and legal issues “are not so novel or complex that [Plaintiff] needs ‘help in presenting the essential merits of his [] position to the court.’” *See Brennan v. Headley*, 807 F. App’x 927, 929 (11th Cir. 2020) (per curiam) (quoting *Kilgo v. Ricks*, 983 F.2d 189, 193 (11th Cir. 1993)) (second alteration in original). Accordingly, Plaintiff’s Motion for Appeal Lawyer (Doc. 233) is **DENIED**.

Plaintiff also requests leave to proceed IFP on appeal. (Doc. 231 at 1). A party who was allowed to proceed IFP in the district court may proceed IFP on appeal “without further authorization, unless” the district court certifies in writing that “the appeal is not taken in good faith” or “a statute provides otherwise.” Fed. R. App. P. 24(a)(3); 28 U.S.C. § 1915(a)(3). An appellant “demonstrates good faith by seeking” review of any claim that is not objectively frivolous. *Ghee v. Retailers Nat’l Bank*, 271 F. App’x 858, 859 (11th Cir. 2008) (per curiam) (quoting *Coppedge v. United States*, 369 U.S. 438, 445 (1962)). A claim is frivolous “if it is without arguable merit either in law or in fact.” *Bilal v. Driver*, 251 F.3d 1346, 1349 (11th Cir. 2001) (citations omitted). Even if a “‘claim is arguable, but ultimately will be unsuccessful,’ it should be allowed to proceed.” *Ghee*, 271 F. App’x at 860 (quoting *Cofield v. Ala. Pub. Serv. Comm’n*, 936 F.2d 512, 515 (11th Cir. 1991)). The Court previously granted Plaintiff IFP status in this action and has not certified that Plaintiff’s appeal is not taken in good faith. (See Doc. 59 at 1–2; Doc. 74 at 1–2; Doc. 227 at 1–4; Fed. R. App. 24(a)(3)(A). No statute bars Plaintiff’s appeal. *See* Fed. R. App. P. 24(a)(3)(B). Since Rule 24(a)(3) permits Plaintiff to appeal IFP without filing a motion in this Court, Plaintiff’s Motion to Appeal IFP (Doc. 231) is **GRANTED**.

SO ORDERED, this 14th day of November, 2022.

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

MOSE
Johnnie Demond Johnson

DECLARATION UNDER PENALTY OF PERJURY

YOU MUST DECLARE UNDER PENALTY OF PERJURY THAT THE ANSWERS YOU HAVE GIVEN IN THE ATTACHED MOTION/AFFIDAVIT FORM ARE TRUE AND CORRECT. GIVING A FALSE ANSWER OR FALSE INFORMATION IN RESPONSE TO ANY QUESTION WILL SUBJECT YOU TO FEDERAL PERJURY CHARGES. 18 U.S.C. § 1621 PROVIDES AS FOLLOWS:

Whoever -

...

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 or title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined not more than \$2,000 or imprisoned not more than five years or both. This section is applicable whether the statement or subscription is made within or without the United States.

Understanding the above, I declare under penalty of perjury that the foregoing answers and information provided by me in support of my request to proceed *in forma pauperis* are true and correct.

Executed this 20th day of January, 20 24.

prose

Johnnie Demond Jackson
(Signature of Plaintiff)