

IN THE
SUPREME COURT OF THE UNITED STATES

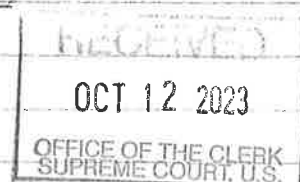
APPEAL CASE NO. 23-11861 (CIVIL)
DC CASE NO. 8:23-cv-01007-CEH-CPT

MOTION FOR EXTENSION OF TIME

COMES NOW THE PLAINTIFF, CARMEN A. ZAMMIELLO,
PRO-SE, PURSUANT TO SUPREME COURT RULES 13.1
AND 13.5 (2023) (SAME) AND JONES-V-BOCK, SUPRA,
Id. 549 U.S. 199, 216 (2007) (FACTUALLY THE SAME)
(HOLDING THAT: "[A]PPELLATE COURT ERRED
IN DISMISSING ALL OF PRISONER'S sec. 1983
CLAIMS BASED SOLELY ON [PROCEDURAL GROUNDS]
AS REQUIRED BY PLRA FOR ALL CLAIMS STATED")
AND RESPECTFULLY MOVES THIS HONORABLE COURT
FOR AN ORDER EXTENDING THE TIME TO FILE
A PETITION FOR WRIT OF CERTIORARI FOR (60)
DAYS AFTER SEPT. 7th 2023, AND FOR GOOD
CAUSE SHOWN BELOW, THE PLAINTIFF STATES
THE FOLLOWING:

I. JURISDICTION

THIS IS A CIVIL ACTION UNDER 42 U.S.C. sec. 1983.
THE COURT HAS JURISDICTION OVER THIS MATTER
UNDER 28 U.S.C. SECTIONS 1254(1), 1651(a) AND
2241, COLLECTIVELY. THE MATTERS ARISE IN CON-
TROVERSY UNDER 42 U.S.C. SEC. 1983.



2. REASONS FOR GRANTING THE INSTANT MOTION FOR EXTENSION OF TIME

IN THE CASE AT BAR, BOTH THE ELEVENTH CIRCUIT COURT OF APPEALS AND THE DISTRICT COURT, MIDDLE DISTRICT OF FLORIDA, "ERRED BY ARBITRARY AND IMPROPERLY DISMISSING MY CIVIL RIGHTS COMPLAINT BASED SOLELY ON [PROCEDURAL GROUNDS] AS REQUIRED BY THE PLRA FOR ALL CLAIMS STATED" AND TO BE SURE, BOTH COURTS HAS ARBITRARY ENTERED DECISIONS IN CONFLICT WITH AND CONTRARY TO, THE DECISIONS AND HOLDINGS OF THIS COURT AND OTHER U.S. COURT OF APPEALS ON THE SAME IMPORTANT QUESTIONS OF LAW AND THUS, HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS "BY CRAFTING AND IMPOSING THEIR OWN PROCEDURAL RULES THAT EXCEEDS THE PROPER LIMITS OF THE JUDICIAL ROLE AND HAS [INTERFERED] WITH MY RIGHT OF ACCESS TO THE COURT'S THEREBY, CONTRIBUTING TO THE DEPRIVATION OF DUE PROCESS, BECAUSE UNDER 28 U.S.C. SEC. 1915(b)(4), MY INABILITY TO PAY THE FILING FEES CANNOT BE A BARRIER TO MY ACCESS TO THE JUDICIARY FOR THE VINDICATION OF MY FUNDAMENTAL CIVIL RIGHTS. ." [see EX "A" AT PP 1-3. EX "B" AT PP 1-3 AND COMPARE TO EX "C" AT PP 1-7, COLLECTIVELY]. e.g. 28 U.S.C. SEC. 1915(b)(4) (2023)(SAME); JONES - V - BOCK, SUPRA, ID. (2007) (SAME); BOUNDS - V - SMITH, SUPRA, ID. (1977) (SAME); BODDIE - V - CONNECTICUT, SUPRA, ID.

(1971)(FACTUALLY THE SAME) AND BYLAND -V - SHAPIRO SUPRA, Id. (5th CIR 1983)(SAME)(CITING BOUNDS -V- SMITH)).

THUS, UNDER JONES -V- BOCK, SUPRA, Id. (2007), BOTH THE ELEVENTH CIRCUIT AND THE DISTRICT COURT RULES ARE CONTRARY TO, AND NOT REQUIRED BY THE PLRA AND VIOLATE THE SPIRIT AND PURPOSE OF 28 U.S.C. SEC. 1915(b)(4) AND "IS PREJUDICIAL TO THE EFFECTIVE AND EXPEDITIOUS ADMINISTRATION OF THE BUSINESS OF THE COURTS AND THUS, VEHEMENTLY CALLS FOR AN EXERCISE OF THIS HONORABLE COURTS' SUPERVISORY POWERS."
[See ALL ATTACHED EXHIBITS "A - C" COLLECTIVELY];
e.g. 28 U.S.C. SEC. 1915(b)(4)(SAME) AND JONES -V- BOCK, SUPRA, Id. (2007)(FACTUALLY THE SAME).

3. CONCLUSION

WHEREFORE, FOR ALL THE FOREGOING COMPELLING REASONS, THE PETITIONER HUMBLY PRAYS THIS HONORABLE COURT GRANTS AN EXTENSION OF TIME IN THIS ACTION, "EXTENDING THE TIME FOR (60) DAYS AFTER SEPT. 7th 2023, TO FILE A PETITION FOR WRIT OF CERTIORARI IN THE ABOVE-STYLED ACTION OR ANY OTHER RELIEF AS JUSTICE SO REQUIRES. . ." e.g. SUPREME COURT RULES 13.1 & 13.5

IT IS SO PRAYED

AUG 31ST 2023

DATE

/s/ Carmen A. Zormiello

PETITIONER, Pro-Se #033535

PROOF OF SERVICE

I, CARMEN A. ZAMMIELLO, DO SWEAR OR DECLARE THAT ON THIS 20th DAY OF SEPT 2023, AS REQUIRED BY SUPREME COURT RULE 29, I HAVE SERVED THE FOREGOING "MOTION FOR EXTENSION OF TIME TOGETHER WITH ATTACHED EXHIBITS "A - C" ON EACH PARTY TO THE ABOVE-PROCEEDING OR THAT PARTY'S COUNSEL BY PLACING THE ABOVE DOCUMENTS IN THE HANDS OF MAILROOM PRISON OFFICIALS AT OKEECHOBEE C.I. FOR MAILING VIA U.S. MAIL TO: ASHLEY MOODY, AG, OPPOSING DEFENDANT COUNSEL, OFFICE OF THE ATTORNEY GENERAL, THE CAPITOL, PL-01, TALLAHASSEE, FL 32399. SOLICITOR GENERAL OF THE UNITED STATES, ROOM 5614, DEPT. OF JUSTICE, 950 PENNSYLVANIA AVE. N.W., WASHINGTON, DC. 20530 AND CLERK'S OFFICE, U.S. SUPREME COURT, 1 FIRST ST. N.W., WASHINGTON, DC. 20543, FOR DELIVERY TO THE CLERK WITHIN (3) CALENDAR DAYS.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON THIS 20th DAY OF SEPT 2023.

/s/ Carmen A. ZammIELLO
PETITIONER, PRO-se, #083535
OKEECHOBEE CORR. INST.
3422 NE 168th ST
OKEECHOBEE, FL. 34972

PROVIDED TO OKEECHOBEE
CORRECTIONAL INSTITUTION
ON 9/20/23 FOR MAILING
BY C.A.Z.

23-11861

RECEIVED ON: THURS. JULY 6th 2023
ORDER DISMISSING CIVIL APPEAL
FOR FAILING TO PAY THE FILING AND
DOCKETING FEES TO THE DISTRICT COURT.
(DOC #3)

[EX "A"]

Carmen A. Zammiello
#083535
Okeechobee CI - Inmate Legal Mail
3420 NE 168TH ST
OKEECHOBEE, FL 34972

READY FOR WRIT OF CERT WITHIN
(90) DAYS AFTER JUNE 27th 2023
SEE SUPREME COURT RULE 13.1.

RECEIVED ON: THURS. JULY 6th 2023

USCA11 Case: 23-11861 Document: 3 Date Filed: 06/27/2023 Page: 1 of 2

**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

June 27, 2023

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

Appeal Number: 23-11861-H
Case Style: Carmen Zammiello v. Secretary, Department of Corrections
District Court Docket No: 8:23-cv-01007-CEH-CPT

The enclosed copy of the Clerk's Order 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.

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

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

Enclosure(s)

DIS-2 Letter and Entry of Dismissal

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 23-11861-H

CARMEN A. ZAMMIELLO,

Plaintiff - Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,

Defendant - Appellee.

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

ORDER: Pursuant to the 11th Cir. R. 42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Carmen A. Zammiello has failed to pay the filing and docketing fees to the district court and failed to comply with the rules on Certificates of Interested Persons and Corporate Disclosure Statements within the time fixed by the rules.

Effective June 27, 2023.

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

FOR THE COURT - BY DIRECTION

23-11861

RECEIVED ON: TUES. JUNE 27th 2023
FOR CIVIL APPEAL # 8:23-CV-01007-CEH-CPT

DISMISSAL NOTICE

MY COPY

MAILED OUT ON:
THURS. 6-29-23

Carmen A. Zammiello
#083535
Okeechobee CI - Inmate Legal Mail
3420 NE 168TH ST
OKEECHOBEE, FL 34972

[EX "B "]

PROOF OF SERVICE

I, CARMEN A. ZAMMIELLO, PRO-SE, DO SWEAR
OR DECLARE UNDER PENALTY OF PERJURY,
THAT A TRUE AND CORRECT COPY OF THE FORE-
GOING [C I P] WAS EXECUTED PER 11th CIR.
R. 42-1(b) ON THIS 29th DAY OF JUNE 2023.

/s/ Carmen A. Zammiello
PLAINTIFF, PRO-SE, #083535

PROVIDED TO OKEECHOBEE
CORRECTIONAL INSTITUTION
ON 6-29-23 FOR MAILING
BY SCA3

RECEIVED ON: TUES. JUNE 27TH 2023

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

June 23, 2023

Carmen A. Zammiello
Okeechobee CI - Inmate Legal Mail
3420 NE 168TH ST
OKEECHOBEE, FL 34972

Appeal Number: 23-11861-H
Case Style: Carmen Zammiello v. Secretary, Department of Corrections
District Court Docket No: 8:23-cv-01007-CEH-CPT

DISMISSAL NOTICE

Pursuant to 11th Cir. R. 42-1(b), **this appeal will be dismissed without further notice upon the expiration of 14 days from the date of this notice** unless:

(The appellant files **BOTH** (1) a Certificate of Interested Persons and Corporate Disclosure Statement (CIP) AND (2) a Motion to File Documents Out of Time. See 11th Cir. R. 26.1-1(a)(2). **[NOT APPLICABLE - NO SUCH MOTION]**)

Note to Counsel: 11th Cir. R. 42-1(b) provides that "If an appellant is represented by appointed counsel, the clerk may refer the matter to the court for possible disciplinary action against counsel in lieu of dismissal." Eleventh Circuit IOP 1 to FRAP 26 provides that "Failure to timely file required documents . . . may result in possible disciplinary action against counsel as described in Addendum Eight."

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

Enclosure(s)

CIP Deficiency Letter

U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT (CIP)

ZAMMIELLO vs. SECY DEPT OF CORR Appeal No. 23-11861

11th Cir. R. 26.1-1(a) requires the appellant or petitioner to file a Certificate of Interested Persons and Corporate Disclosure Statement (CIP) with this court within 14 days after the date the case or appeal is docketed in this court, and to include a CIP within every motion, petition, brief, answer, response, and reply filed. Also, all appellees, intervenors, respondents, and all other parties to the case or appeal must file a CIP within 28 days after the date the case or appeal is docketed in this court. **You may use this form to fulfill these requirements.** In alphabetical order, with one name per line, please list all trial judges, attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of this case or appeal, including subsidiaries, conglomerates, affiliates, parent corporations, any publicly held corporation that owns 10% or more of the party's stock, and other identifiable legal entities related to a party. *(Please type or print legibly):*

RICKY DIXON, SECY DEPT OF CORR ET AL.

CHARLENE E. HONEYWELL, U.S. DISTRICT JUDGE

CHRISTOPHER P. TUITE, MAGISTRATE JUDGE

Submitted by:

Signature: Carmen A. ZammIELLO, Pro-se.

Name: CARMEN A. ZAMMIELLO Prisoner # (if applicable): 083535

Address: O.C.I. 3420 NE 168th ST Okeechobee FL 34972

Telephone #: _____

[EX "C"]

Case: 8:23-cv-01007-CEH-CPT

RECEIVED ON: FRI, JUNE 9th 2023 "NOTICE
OF APPEAL" FOR CIVIL RIGHTS COMPLAINT
ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE
TO FILING A NEW COMPLAINT (DOC. #3).

Carmen A. Zammiello 083535
Okeechobee Correctional Institution
3420 N.E. 168th St
Okeechobee, FL 34972

1

MIME-Version:1.0
From:cmecf_flmd_notification@flmd.uscourts.gov
To:cmecf_flmd_notices@localhost.localdomain
Bcc:
--Case Participants:
--Non Case Participants:
--No Notice Sent:

Message-Id:<23241447@flmd.uscourts.gov>
Subject:Activity in Case 8:23-cv-01007-CEH-CPT Zammiello v. Dixon Transmission
of Notice of Appeal, Order/Judgment and Docket Sheet to USCA
Content-Type: text/plain

This is an automatic e-mail message generated by the CM/ECF system.
Please DO NOT RESPOND to this e-mail because the mail box is unattended.
NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States
policy permits attorneys of record and parties in a case (including pro se
litigants) to receive one free electronic copy of all documents filed
electronically, if receipt is required by law or directed by the filer. PACER
access fees apply to all other users. To avoid later charges, download a copy of
each document during this first viewing. However, if the referenced document is
a transcript, the free copy and 30 page limit do not apply.

U.S. District Court
Middle District of Florida

(Notice of Electronic Filing)

The following transaction was entered on 6/5/2023 3:56 PM EDT and filed
on 6/5/2023

Case Name: Zammiello v. Dixon

Case Number: 8:23-cv-01007-CEH-CPT
<https://ecf.flmd.uscourts.gov/cgi-bin/DktRpt.pl?413973>

Filer:

WARNING: CASE CLOSED on 05/24/2023

Document Number: 5

Copy the URL address from the line below into the location bar
of your Web browser to view the document:
https://ecf.flmd.uscourts.gov/doc1/047125717534?caseid=413973&de_seq_num=21&magic_num=MAGIC

Docket Text:
TRANSMITTAL of initial appeal package
to USCA consisting of copies of notice of appeal, docket sheet, order/judgment
being appealed, and motion, if applicable to USCA re [4] Notice of Appeal.
(CTR)

8:23-cv-01007-CEH-CPT Notice has been electronically mailed to:

8:23-cv-01007-CEH-CPT Notice has been delivered by other means to:
Carmen A. Zammiello
083535
Okeechobee Correctional Institution
3420 N.E. 168th St
Okeechobee, FL 34972

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1069447731 [Date=6/5/2023] [FileNumber=23241446-0]
[2275ab62d5df4b96060f2b028b050443733253d9e67f429ddd83dfea22c85a78a57ce1ea7989001
bb626d06ae20a48e833680cc906222847a3d1fe4ea1da2c16]]

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

Sam M. Gibbons U.S. Courthouse
Office of the Clerk
801 North Florida Avenue
Tampa, FL 33602
(813) 301-5400
www.flmd.uscourts.gov

Elizabeth M. Warren
Clerk of Court

Kristin Esposito
Tampa Division Manager

DATE: June 5, 2023

TO: Clerk, U.S. Court of Appeals for the Eleventh Circuit

CARMEN A. ZAMMIELLO,

Plaintiff,

v.

Case No: 8:23-cv-1007-CEH-CPT

RICKY DIXON,

Defendant.

U.S.C.A. Case No.: UNKNOWN

Enclosed are documents and information relating to an appeal in the above-referenced action. Please acknowledge receipt on the enclosed copy of this letter.

- Honorable Charlene Edwards Honeywell, United States District Judge appealed from.
- Appeal filing fee was not paid. Upon filing a notice of appeal, the appellant must pay the district clerk all required fees. The district clerk receives the appellate docket fee on behalf of the court of appeals. If you are filing in forma pauperis, a request for leave to appeal in forma pauperis needs to be filed with the district court.
- IFP has been Denied. Order enclosed.
- Certified copy of Notice of Appeal, docket entries, judgment and/or Order appealed from. Opinion was not entered orally.
- No hearing from which a transcript could be made.

ELIZABETH M. WARREN, CLERK

By: s/C. Roberts, Deputy Clerk

APPEAL, CLOSED, TpaP-3

**U.S. District Court
Middle District of Florida (Tampa)
CIVIL DOCKET FOR CASE #: 8:23-cv-01007-CEH-CPT**

Zammiello v. Dixon
Assigned to: Judge Charlene Edwards Honeywell
Referred to: Magistrate Judge Christopher P. Tuite
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 05/08/2023
Date Terminated: 05/24/2023
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Carmen A. Zammiello

represented by **Carmen A. Zammiello**
083535
Okeechobee Correctional Institution
3420 N.E. 168th St
Okeechobee, FL 34972
PRO SE

V.

Defendant

Ricky Dixon
Secretary, Department of Corrections

Date Filed	#	Page	Docket Text
05/08/2023	<u>1</u>		COMPLAINT against Ricky Dixon with Jury Demand filed by Carmen A. Zammiello. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Mailing Envelope)(CTR) (Entered: 05/10/2023)
05/08/2023	<u>2</u>		MOTION to Proceed In Forma Pauperis by Carmen A. Zammiello. (CTR) Motions referred to Magistrate Judge Christopher P. Tuite. (Entered: 05/10/2023)
05/24/2023	<u>3</u>		ORDER dismissing case. The complaint <u>1</u> is DISMISSED WITHOUT PREJUDICE to filing a new complaint, in a new case with a new case number, upon the payment of the filing fee. The motion to proceed <i>in forma pauperis</i> <u>2</u> is DENIED. The CLERK is directed to close this case. Signed by Judge Charlene Edwards Honeywell on 5/24/2023. (BGS) (Entered: 05/24/2023)
06/05/2023	<u>4</u>		NOTICE OF APPEAL as to <u>3</u> Order Dismissing Case, by Carmen A. Zammiello. Filing fee not paid. (Attachments: # <u>1</u> Mailing Envelope)(CTR) (Entered: 06/05/2023)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CARMEN A. ZAMMIELLO,

Plaintiff,

v.

CASE NO. 8:23-cv-1007-CEH-CPT

RICKY DIXON, SECRETARY,
DEPARTMENT OF CORRECTIONS, *et al.*,

Defendants.

ORDER

Plaintiff, a Florida prisoner, initiated this action *pro se* by filing a civil rights complaint (Doc. 1) in which he alleges officers falsely arrested him, and he is falsely imprisoned. Plaintiff moves for leave to proceed *in forma pauperis* under 28 U.S.C. § 1915 (Doc. 2).

Section 1915(g) provides:

- (g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

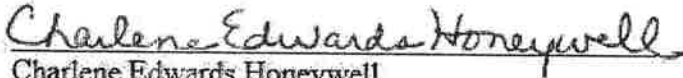
28 U.S.C. § 1915(g).

Plaintiff's prior cases dismissed as either frivolous, malicious, or for failing to state a claim upon which relief may be granted include *Zammiello v. City of St.*

Petersburg, 8:13-cv-1959-EAK-EAJ (M.D.Fla.); *Zammiello v. David Mauch*, 8:15-cv-773-EAK-AEP (M.D.Fla.); and *Zammiello v. Dixon*, 8:22-cv-84-CEH-CPT (M.D.Fla). Additionally, Zammiello appealed the dismissal in case no. 13-cv-1959, which appeal was dismissed as frivolous (Doc. 11 in 13-cv-1959). Because Plaintiff has had at least three prior dismissals that qualify under Section 1915(g) and because he alleges no facts showing he is under imminent danger of serious physical injury, he may not proceed in forma pauperis. He may initiate a new civil rights case by filing a civil rights complaint and paying the filing fee in full.

Accordingly, the complaint (Doc. 1) is **DISMISSED WITHOUT PREJUDICE** to filing a new complaint, in a new case with a new case number, upon the payment of the filing fee. The motion to proceed *in forma pauperis* (Doc. 2) is **DENIED**. The **CLERK** is directed to close this case.

ORDERED in Tampa, Florida, on May 24, 2023.


Charlene Edwards Honeywell
United States District Judge

Copy to: Plaintiff, *pro se*