

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 8th day of January, two-thousand twenty-five.

Present:

John M. Walker, Jr.,
Beth Robinson,
Sarah A. L. Merriam,
Circuit Judges.

David C. Lettieri,

Plaintiff-Appellant,

v.

23-7842

U.S. Department of Justice, et al.,

Defendants-Appellees.

Appellant, proceeding pro se, moves for in forma pauperis status. However, this Court has determined that the notice of appeal was untimely filed. Upon due consideration, it is hereby ORDERED that the appeal is DISMISSED for lack of jurisdiction and Appellant's motion is DENIED as moot. See 28 U.S.C. § 2107; *Bowles v. Russell*, 551 U.S. 205, 214 (2007).

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court


Catherine O'Hagan Wolfe

U.S. DISTRICT COURT
U.S. District Court, Western District of New York (Buffalo)
CIVIL DOCKET FOR CASE #: 1:23-cv-00771-LJV

Lettieri v. Department of Justice et al
Assigned to: Hon. Lawrence J. Vilardo
Demand: \$1,000,000,000
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 07/31/2023
Date Terminated: 08/20/2024
Jury Demand: Plaintiff
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

David C. Lettieri

represented by **David C. Lettieri**
2023-00002000
NIAGARA COUNTY JAIL
5526 Niagara Street Ext.
BOX 496
LOCKPORT, NY 14095
PRO SE

V.

Defendant

Department of Justice

Defendant

Federal Buearu of Investigation

Defendant

Broome County Humane Society

Date Filed	#	Docket Text
07/31/2023	<u>1</u>	COMPLAINT against Broome County Humane Society, Department of Justice, Federal Buearu of Investigation, filed by David C. Lettieri. (CGJ) (Entered: 08/01/2023)
07/31/2023	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by David C. Lettieri. (CGJ) (Entered: 08/01/2023)
08/01/2023		Remark: Plaintiff has been mailed a pro se packet including a privacy notice, consent to proceed before a Magistrate Judge, and a civil case timeline. (CGJ) (Entered: 08/01/2023)
08/22/2023	<u>3</u>	TEXT ORDER denying Docket Item <u>2</u> , Motion for leave to proceed <i>in forma pauperis</i> . The <i>pro se</i> plaintiff, David C. Lettieri, is currently incarcerated at the Northeast Ohio Correctional Center. He has filed a complaint asserting claims under 42 U.S.C. § 1983, Docket Item <u>1</u> , and a motion to proceed <i>in forma pauperis</i> ("IFP")—that is, without prepaying costs, Docket Item <u>2</u> . Lettieri has attempted to commence more than 30 civil cases in this Court and has been advised in numerous prior orders that a motion to proceed

		<p>IFP must include (1) a sworn affidavit establishing that he is unable to pay the \$350.00 filing fee; (2) a certification of his inmate trust fund account; and (3) a signed authorization permitting the institution in which he is confined to pay the \$350.00 filing fee from his trust fund account. 28 U.S.C. § 1915(a)-(b). In this case, Lettieri has not submitted the required authorization. Lettieri has thirty days from entry of this order to submit either (1) the filing and administrative fees, or (2) the signed authorization. The Clerk of the Court is directed to administratively terminate this action, without filing the complaint or assessing a filing fee, and to send a form IFP motion to the plaintiff. Lettieri will be granted leave to reopen this case, without further order, upon submission of either (1) the \$350.00 filing fee and the \$52.00 administrative fee (\$402.00 total), or (2) the required authorization. The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore denies leave to appeal as a poor person. <i>Coppedge v. United States</i>, 369 U.S. 438, 444-45 (1962). Further, Lettieri is cautioned that if he continues to file complaints with insufficient IFP applications, he may be subject to sanctions. SO ORDERED. Issued by Hon. Lawrence J. Vilardo on 8/22/2023. (DJ)</p> <p>Clerk to Follow up by mailing this order and a form IFP motion, including an authorization form, to the plaintiff. (Entered: 08/22/2023)</p>
08/22/2023		Clerk mailed 3 Text Order, IFP motion and authorization form to plaintiff (CGJ) (Entered: 08/22/2023)
08/22/2023	<u>4</u>	<p>JUDGMENT in favor of Broome County Humane Society, Department of Justice, Federal Bureau of Investigation against David C. Lettieri. Signed by Mary C. Loewenguth, Clerk of Court on 8/22/2023. (CGJ)</p> <p>This was mailed to: Plaintiff. (Entered: 08/22/2023)</p>
09/08/2023	<u>5</u>	Mail Returned as Undeliverable. 3 Text Order, <u>4</u> Judgment sent to David C. Lettieri (CGJ) (Entered: 09/08/2023)
09/25/2023	<u>6</u>	MOTION for Discovery by David C. Lettieri. (CGJ) (Entered: 09/25/2023)
09/25/2023	<u>7</u>	MOTION to Comply by David C. Lettieri. (CGJ) (Entered: 09/25/2023)
10/10/2023		Clerk remailed copies of 3 Text Order, <u>4</u> Judgment, IFP motion and authorization form to Plaintiff at Northeast Ohio Correctional Center and Niagara County Jail (CGJ) (Entered: 10/10/2023)
10/25/2023	<u>8</u>	Mail Returned as Undeliverable. 3 Text Order, <u>4</u> Judgment sent to David C. Lettieri (CGJ) (Entered: 10/25/2023)
11/20/2023	<u>9</u>	Letter from David C. Lettieri, dated 11/2/2023. (CGJ) (Entered: 11/20/2023)
11/20/2023	<u>10</u>	MOTION for Leave to Proceed in forma pauperis by David C. Lettieri.(CGJ) (Entered: 11/20/2023)
11/20/2023	<u>11</u>	NOTICE OF APPEAL as to 3 Text Order, by David C. Lettieri. Fee Status: Due (CGJ) (Entered: 11/20/2023)
11/20/2023	<u>12</u>	CLERKS CERTIFICATE filed and electronically sent to Court of Appeals (Attachments: # <u>1</u> Index) (CGJ) (Entered: 11/20/2023)
12/04/2023		Case Stayed re <u>11</u> Order filed in 23-mc-32. (SG) (Entered: 12/05/2023)
07/19/2024	<u>13</u>	TEXT ORDER lifting the stay, denying the motion for leave to proceed <i>in forma pauperis</i> , Docket Item <u>10</u> , and denying the motions for discovery, Docket Item <u>6</u> , and to comply, Docket Item <u>7</u> , without prejudice pursuant to the order issued in <i>In re Lettieri</i> , Case No. 23-mc-32, Docket Item 32 (W.D.N.Y. July 19, 2024). If Lettieri does not pay the \$350.00