

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

HAROLD J. BLAKELY

VS.

CIVIL ACTION NO. 2:13cv72-KS-MTP

CITY OF LAUREL CLERK OFFICE, ET AL

ORDER

This cause is before the Court on Application to Proceed in District Court Without Prepaying Fees or Costs [29]. This Court assumes and will address this application as an application to proceed on appeal without prepayment of costs since the Movant was previously granted IFP status in his original complaint. The Court finds as follows:

THAT the Court has considered the application and has considered the facts and circumstances of this case and specifically, the Court looks to the Order [20] entered by this Court on April 30, 2013. This Court found that the complaint brought by Harold J. Blakely, herein, was frivolous and malicious and that he had previously addressed the same issues in a state court on three separate occasions, all yielding the same result; and

THAT none of the three prior state decisions were appealed; and

THAT the action herein is barred by the doctrine of *res judicata*; and

THAT the action herein had been brought in bad faith, was clearly frivolous and malicious and failed to state a claim upon which relief could be granted; and

THAT the Court assessed sanctions in the amount of \$5,000.00 and ordered the Petitioner, Blakely, to pay the cost of the original action in the amount of \$350.00 plus costs of process, which have not been paid; and

THAT the Court finds that this appeal is without basis, is clearly frivolous and malicious, and that pursuant to 28 U.S.C. § 1915(a)(3) that “an appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith;” and

THAT the Court certifies that this appeal is not taken in good faith and the application to appeal IFP is **denied**.

SO ORDERED on this, the 30th day of May, 2013.

s/Keth Starrett
UNITED STATES DISTRICT JUDGE