

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
MISSISSIPPI, GREENVILLE DIVISION

Nelson v. Hoskins

Nelson · No. 4:25-CV-111-DMB-RP · Decided March 24, 2026

SUMMARY

The United States District Court for the Northern District of Mississippi denied Sidney C. Nelson’s motion to appeal in forma pauperis. The court concluded that the notice of appeal was untimely and directed at an interlocutory or otherwise nonappealable order, and certified under 28 U.S.C. § 1915(a)(3) that the appeal was not taken in good faith.

CASE DETAILS

COURT	United States District Court for the Northern District of Mississippi, Greenville Division
WRITING FOR THE COURT	Debra M. Brown
JURISDICTION	United States District Court for the Northern District of Mississippi, Greenville Division
DECIDED	March 24, 2026
DOCKET	4:25-CV-111-DMB-RP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought leave to appeal in forma pauperis after filing a notice of appeal from an asserted final judgment or order. The district court denied the motion and certified under 28 U.S.C. § 1915(a)(3) that the appeal was not taken in good faith.
STANDARD OF REVIEW	The district court determines whether a proposed appeal may proceed in forma pauperis under Federal Rule of Appellate Procedure 24(a) and 28 U.S.C. § 1915(a)(3), including whether the appeal is taken in good faith and presents nonfrivolous issues.
PRECEDENTIAL VALUE	Unknown; district court order with no reported citation
PARTIES	Sidney C. Nelson v. Brenetta A. Hoskins

TOPICS

- appellate procedure
- appellate jurisdiction
- interlocutory appeal
- section 1983
- civil procedure

PRACTICE AREAS

civil procedure

appellate procedure

civil rights

constitutional law

QUESTIONS PRESENTED

1. Whether Nelson could proceed in forma pauperis with an appeal when the identified September 12, 2025, judgment or order did not exist.
2. Whether the August 18, 2025, magistrate-judge show-cause order was appealable as a final order or under the collateral-order doctrine.
3. Whether Nelson's appeal was timely and properly challenged the magistrate judge's order.
4. Whether the proposed appeal was taken in good faith and presented nonfrivolous issues under 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24(a).

HOLDINGS

1. Nelson could not proceed with an appeal from a purported September 12, 2025, final judgment or order because no judgment or order was entered in the case on that date.
2. The August 18, 2025, show-cause order was interlocutory and was not immediately appealable because Nelson did not establish an applicable exception to the final-judgment rule or the collateral-order doctrine.
3. Nelson's appeal was untimely, and a challenge to the magistrate judge's nondispositive order was required to be directed to the district judge rather than taken directly to the Fifth Circuit.
4. Nelson's motion to appeal in forma pauperis was denied because the proposed appeal was not taken in good faith and did not identify nonfrivolous appellate issues.

KEY QUOTATIONS

“Because (1) no judgment or order was entered in this case on September 12, 2025; (2) if Nelson’s notice of appeal pertains to the August 18 show cause order, the show cause order is interlocutory and not subject to appeal absent certain exceptions inapplicable here; (3) any challenge to a magistrate judge’s order on a nondispositive matter must be directed to the district judge; (4) Nelson’s appeal is untimely; and (5) even if Nelson could properly appeal a non-interlocutory order directly to the Fifth Circuit Court of Appeals, his appeal raises frivolous issues so is not taken in good faith, Nelson’s motion to appeal in forma pauperis [14] is DENIED.”

*“Though the Court certifies that Nelson’s appeal is not taken in good faith under 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24(a)(3), Nelson may challenge this finding pursuant to *Baugh v. Taylor*, 117 F.3d 197 (5th Cir. 1997), by filing a separate motion to proceed in forma pauperis on appeal with the Fifth Circuit Court of Appeals within thirty days from the date of this order.”*

FACTUAL BACKGROUND

Nelson filed a pro se complaint alleging that Brenetta A. Hoskins, an Administrative Remedy Program Team Leader, violated his constitutional rights under 42 U.S.C. § 1983. The magistrate judge ordered Nelson to show

cause why his claims should not be dismissed with prejudice, and Nelson filed an untimely response. Nelson then filed a notice of appeal and a motion to appeal in forma pauperis, asserting that a final judgment or order had been entered on September 12, 2025, although no such judgment or order existed.

PROCEDURAL HISTORY

Nelson filed a pro se § 1983 complaint alleging constitutional violations by the defendant. Magistrate Judge Roy Percy issued an August 18, 2025, show-cause order, and Nelson filed an untimely response. Nelson later filed a notice of appeal and a motion to proceed in forma pauperis, identifying September 12, 2025, as the date of the purported final judgment or order. The district court concluded that no order was entered on that date, the show-cause order was interlocutory, any appeal was untimely, the proper procedure for challenging a nondispositive magistrate-judge order had not been followed, and the proposed appeal was frivolous.

DISPOSITION

other

CASES CITED

- Ashley v. Clay Cnty., 125 F.4th 654, 659 (5th Cir. 2025)
- Mitchell v. Forsyth, 472 U.S. 511, 524 (1985)
- Troice v. Proskauer Rose, L.L.P., 816 F.3d 341, 345 (5th Cir. 2016)
- Texas v. United States, 808 F.3d 675, 676 (5th Cir. 2015)
- Baugh v. Taylor, 117 F.3d 197 (5th Cir. 1997)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI GREENVILLE DIVISION SIDNEY C. NELSON PLAINTIFF V. NO. 4:25-CV-111-DMB-RP BRENETTA A. HOSKINS DEFENDANT AMENDED ORDER DENYING IN FORMA PAUPERIS APPEAL On July 14, 2025, Sidney C. Nelson filed a pro se complaint in the United States District Court for the Northern District of Mississippi, asserting “a 42 U.S.C. § 1983 claim alleging that the Administrative Remedy Program (ARP) Team Leader, Brenetta A. Hoskins, denied him of his constitutional rights to equal protection under the 8th, and 14th USCA” Doc. #1 at PageID 3.

On August 18, United States Magistrate Judge Roy Percy ordered Nelson to show cause within twenty-one days why his claims should not be dismissed with prejudice. Doc. #8. Nelson filed an untimely response to the show cause order on September 12. Doc. #11.

On December 30, over three months later, Nelson filed a pro se notice of appeal stating that he “appeal[s] to the United States Court of Appeals for the Fifth Circuit from the Final Judgment and/or Order of this Court entered in this action on the 12th day of September, 2025.” Doc. #13 at PageID 112.

The same day, Nelson filed a pro se motion to appeal in forma pauperis. Doc. #14. Because (1) no judgment or order was entered in this case on September 12, 2025; (2) if Nelson’s notice of appeal pertains to the August 18 show cause order, the show cause order is interlocutory¹ and not subject to appeal absent certain exceptions inapplicable here;² (3) any ¹ See *Ashley v. Clay Cnty.*, 125 F.4th 654, 659 (5th Cir.

2025) (“As a rule, federal courts generally extend their jurisdiction only to ‘final decisions of the district courts.’”) (quoting *Mitchell v. Forsyth*, 472 U.S. 511, 524 (1985)). ² See *id.* (“The collateral order doctrine ... allows federal appellate jurisdiction over cases, that while not ending the litigation, effectively function as final decisions. ... To fall within this exception, an order must ‘(1) conclusively challenge to a magistrate judge’s order on a nondispositive matter must be directed to the district judge;³ (4) Nelson’s appeal is untimely;⁴ and (5) even if Nelson could properly appeal a non- interlocutory order directly to the Fifth Circuit Court of Appeals, his appeal raises frivolous issues⁵ so is not taken in good faith,⁶ Nelson’s motion to appeal in forma pauperis [14] is DENIED.

Though the Court certifies that Nelson’s appeal is not taken in good faith under 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24(a)(3), Nelson may challenge this finding pursuant to *Baugh v. Taylor*, 117 F.3d 197 (5th Cir. 1997), by filing a separate motion to proceed in forma pauperis on appeal with the Fifth Circuit Court of Appeals within thirty days from the date of this order.

If Nelson files a motion to appeal in forma pauperis with the Fifth Circuit, the prison authorities will be directed to collect the fees to file such motion as calculated below: 1. Nelson is assessed an initial partial fee of \$0.00.

The agency having custody of Nelson shall collect this amount from the trust fund account or institutional equivalent—when determine the disputed question; (2) resolve an issue that is completely separate from the merits of the action; and (3) be effectively unreviewable on appeal from a final judgment.”) (quoting *Troice v. Proskauer Rose, L.L.P.*, 816 F.3d 341, 345 (5th Cir.

2016)). ³ See FED. R. CIV. P. 72(a) (“A party may serve and file objections to the [magistrate judge’s] order within 14 days after being served with a copy. A party may not assign as error a defect in the order not timely objected to.

The district judge in the case must consider timely objections”). ⁴ *Id.* Even if the show cause order could be considered final and Nelson could appeal directly to the Fifth Circuit, his appeal still would be untimely. See FED. R. APP. P. 4(a)(1)(A) (“In a civil case, ... the notice of appeal ... must be filed with the district clerk within 30 days after entry of the judgment or order appealed from.”).

Such would be the case even if Nelson complied with the procedural requirements imposed by Federal Rule of Appellate Procedure 4(c) for an inmate confined in an institution, which he has not. 5 Federal Rule of Appellate Procedure 24(a) provides that “a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court,” attaching an affidavit that shows the party’s inability to pay, claims an entitlement to redress, and states the issues the party intends to present on appeal.

FED. R. APP. P. 24(a)(1)(A)-(C). A party seeking to appeal in forma pauperis must show not only that he is unable to pay for costs and fees but that the appeal presents nonfrivolous issues. *Texas v. United States*, 808 F.3d 675, 676 (5th Cir. 2015). Though Nelson’s motion appears to indicate he is unable to pay appellate fees and costs, he essentially fails to specify the issues he intends to present on appeal as to the show cause order.

For his issues on appeal, he “alleges that his personal property (containing his legal documents (pertaining to trial transcripts and filed motions were lost during transfer (within MSP)).” Doc. #14 at PageID 127. But such does not address the specific reasons why Judge Percy ordered him to show cause. 6 “An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). funds are available—and forward it to the clerk of the district court.

2. Thereafter, Nelson shall pay \$605.00, the balance of the filing fees, in periodic installments. Nelson must make payments of 20% of the preceding month’s income credited to his prison account until he has paid the total filing fees of \$605.00.

The agency having custody of Nelson shall collect this amount from his trust fund account or institutional equivalent—when funds are available and when permitted by 28 U.S.C. § 1915(b)(2)—and forward it to the clerk of the district court. 3. If Nelson moves to appeal in forma pauperis, the clerk shall mail a copy of this order to the inmate accounting office or other person(s) or entity with responsibility for collection and remitting to the district court interim filing payments on behalf of prisoners, as designated by the facility in which Nelson is currently or subsequently confined.

SO ORDERED, this 24th day of March, 2026. /s/Debra M. Brown UNITED STATES DISTRICT JUDGE