

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

CLARENCE E.  
GRISSOM,

Plaintiff,

v.

CASE NO. 09-3128-SAC

RAY ROBERTS,  
et al.,

Defendants.

O R D E R

This action was dismissed and all relief was denied by Order entered September 9, 2010. The matter is now before the court upon plaintiff's Notice of Appeal (Docs. 51, 55) and Motion to Appoint Counsel on appeal (Docs. 52, 56).

Plaintiff was granted leave to proceed in forma pauperis in this action. However, the court certifies that the appeal is not taken in good faith. See Fed.R.App.P. Rule 24(a)(3)(A)(a party permitted to proceed in forma pauperis in the district court may proceed in forma pauperis on appeal without further authorization unless the district court certifies the appeal is not taken in good faith or finds the party is not otherwise entitled to proceed in forma pauperis). In its Memorandum and Order of September 9, 2010, this court found the claims raised in plaintiff's Complaint were not supported by sufficient facts to state a federal constitutional claim. The court has reviewed plaintiff's Notice of Appeal and finds that plaintiff has presented no non-frivolous factual or

legal ground for appeal. For the reasons stated in its Memorandum and Order of September 9, 2010, and herein, the court certifies that the appeal is not taken in good faith. See also 28 U.S.C. § 1915(a)(3). Accordingly, the court denies plaintiff leave to proceed without prepayment of fees on appeal.

**IT IS THEREFORE ORDERED** that this court certifies that this appeal is not taken in good faith, and plaintiff is denied leave to proceed without prepayment of fees on appeal.

**IT IS FURTHER ORDERED** that plaintiff's Motion for Appointment of Counsel on Appeal (Doc. 52, 56) is denied.

The clerk is directed to transmit a copy of this Order to the Tenth Circuit Court of Appeals.

**IT IS SO ORDERED.**

Dated this 9<sup>th</sup> day of November, 2010, at Topeka, Kansas.

s/Sam A. Crow  
U. S. Senior District Judge