

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

|                               |   |                                    |
|-------------------------------|---|------------------------------------|
| NAPOLEON GRAY,                | ) |                                    |
|                               | ) |                                    |
| Plaintiff,                    | ) |                                    |
|                               | ) |                                    |
| v.                            | ) | CIVIL ACTION NO. 5:15-CV-210 (MTT) |
|                               | ) |                                    |
| HOWARD ABERT, <i>et al.</i> , | ) |                                    |
|                               | ) |                                    |
| Defendants.                   | ) |                                    |
|                               | ) |                                    |

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ORDER

Before the Court is the Plaintiff’s motion to proceed *in forma pauperis*. (Doc. 2). Pursuant to 28 U.S.C. § 1915(a), the Court must determine whether the statements contained in the Plaintiff’s financial affidavit satisfy the requirement of poverty. *Martinez v. Kristi Kleaners, Inc.*, 364 F.3d 1305, 1307 (11th Cir. 2004). “[A]n affidavit will be held sufficient if it represents that the litigant, because of his poverty, is unable to pay for the court fees and costs, and to support and provide necessities for himself and his dependents.” *Id.* Based on the Plaintiff’s application, it is apparent he is unable to pay court fees and costs because of his poverty. Therefore, the Plaintiff’s motion to proceed *in forma pauperis* is **GRANTED**. Because the Plaintiff is proceeding *in forma pauperis*, the Court is required to dismiss the case if it (1) is frivolous or malicious, (2) fails to state a claim on which relief may be granted, or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B).

The Plaintiff alleges that several of the Defendants “master[ed]” his music, other Defendants put three of his songs “on the market” without his permission, and Defendants eBay, Amazon, and YouTube have been selling and promoting these

songs. The Plaintiff also alleges he has never been paid to produce these songs and has never received any royalty checks from the Defendants. The Court interprets the Plaintiff's claims to be claims for copyright infringement. However, the Plaintiff has not alleged that he registered the copyrights to the three songs at issue. Under 17 U.S.C. § 411(a), "no civil action for infringement of the copyright in any United States work shall be instituted until preregistration or registration of the copyright claim has been made." This registration requirement "amounts to a precondition to filing a claim." *Dowbenko v. Google Inc.*, 582 F. App'x 801, 805 (11th Cir. 2014) (internal quotation marks and citation omitted). Because the Plaintiff has failed to plead that he registered the copyrights to the three songs at issue, the Plaintiff cannot state a copyright claim against any of the Defendants. *Id.* Because the complaint fails to state a claim on which relief may be granted, the case is **DISMISSED without prejudice**.

**SO ORDERED**, this 10th day of June, 2015.

S/ Marc T. Treadwell  
MARC T. TREADWELL  
UNITED STATES DISTRICT COURT