

ARKANSAS SUPREME COURT

No. 08-1291

JOHN MARTIN
Petitioner

v.

MARK JEFFERSON MOBLEY
Respondent

Opinion Delivered February 5, 2009

PRO SE PETITION FOR LEAVE TO
PROCEED *IN FORMA PAUPERIS*
WITH TENDERED MOTION FOR
RULE ON CLERK [CIRCUIT COURT
OF POPE COUNTY, CV 2004-255,
HON. RUSSELL ROGERS, JUDGE]

PETITION DENIED.

PER CURIAM

Petitioner John Martin, who is incarcerated in the Arkansas Department of Correction and proceeding pro se, filed a civil complaint against respondent attorney Mark Jefferson Mobley in Pope County Circuit Court. In the complaint, petitioner asserted that the defendant had represented him in certain criminal proceedings and raised allegations concerning that representation and the fees charged. The circuit court dismissed the complaint. Petitioner timely filed a notice of appeal.

Petitioner has now filed in this court a motion to proceed *in forma pauperis* in conjunction with the tender of a motion for rule on clerk, seeking to lodge an appeal of the order dismissing the complaint. Petitioner asserts that he is indigent and that he believes he is entitled to relief. There is no inherent right to judicial process, but the state may not withhold this process when to do so would deprive a person of a fundamental constitutional right. *Russell v. Grimes*, 327 Ark. 201, 936 S.W.2d 763 (1997) (per curiam). In order for this court to grant a request to proceed *in forma pauperis* in a civil proceeding, the applicant must demonstrate that the civil appeal would implicate a fundamental right. *Id.* Petitioner has failed to make such a showing in this case.

Moreover, Rule 72 of the Arkansas Rules of Civil Procedure conditions the right to proceed *in forma pauperis* on, among other things, the court's satisfaction that the alleged facts indicate a colorable cause of action. *Boles v. Huckabee*, 340 Ark. 410, 12 S.W.3d 201 (2000) (per curiam). A colorable cause of action is a claim that is legitimate and may reasonably be asserted given the facts presented and the current law or a reasonable and logical extension or modification of it. *Id.* at 412, 12 S.W.3d 202-203. Petitioner has made no showing that he has a colorable cause of action; he merely contends that he is unable to pay the costs and fees associated with the appeal.

Petitioner's request to proceed as a pauper is denied. Our clerk is directed to file the tendered motion for rule on clerk only if petitioner remits the filing fee within thirty days of the date of this opinion. *See Young v. Black*, 366 Ark. 198, 234 S.W.3d 284 (2006) (per curiam).

Petition denied.