

[DO NOT PUBLISH]

In the  
United States Court of Appeals  
For the Eleventh Circuit

---

No. 23-13767

Non-Argument Calendar

---

KELVIN B. STEPHENS,

Plaintiff-Appellant,

*versus*

HOMEWOOD SUITES,

Defendant-Appellee.

---

Appeal from the United States District Court  
for the Northern District of Georgia  
D.C. Docket No. 1:23-cv-03273-MHC

---

Before WILSON, JILL PRYOR, and GRANT, Circuit Judges.

PER CURIAM:

This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. Kelvin Stephens, proceeding *pro se*, appeals first from a magistrate judge's report and recommendation ("R&R") recommending that his case be dismissed without prejudice for failure to comply with a court order. We lack jurisdiction to review the R&R because it was not rendered final by the district judge at the time Stephens filed his notice of appeal. See 28 U.S.C. §§ 636(b)(1), 1291; *Perez-Priego v. Alachua Cnty. Clerk of Ct.*, 148 F.3d 1272, 1273 (11th Cir. 1998).

Stephens also appeals, via an amended notice of appeal, from the district judge's November 22, 2023 order denying his application to proceed *in forma pauperis* ("IFP") on appeal. Such rulings are not appealable, as the proper procedure is to file in the appellate court a motion to proceed IFP on appeal. See Fed. R. App. P. 24(a)(5); *Gomez v. United States*, 245 F.2d 346, 347 (5th Cir. 1957). We thus also lack jurisdiction to review that order.

All pending motions are DENIED as moot. No petition for rehearing may be filed unless it complies with the timing and other requirements of 11th Cir. R. 40-3 and all other applicable rules.