

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

WILLIAM G. EATON,

Petitioner,

v.

C. HOLINKA,

Respondent.

ORDER

10-cv-87-bbc

This petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241 was dismissed on May 13, 2010 because petitioner William C. Eaton has not shown the existence of any fundamental defect in his conviction or sentence. On July 8, 2010, I denied petitioner's motion for reconsideration,

Now petitioner has filed a notice of appeal. Because he has not paid the \$455 fee for filing a notice of appeal, I construe the notice as including a request for leave to proceed in forma pauperis on appeal. The request will be denied because I must certify that petitioner's appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3).

Petitioner does not assert any grounds for his appeal and he has no meritorious argument to show that he can pursue his 28 U.S.C. § 2241 petition. Therefore, I am

certifying that his appeal is not taken in good faith and denying his request for leave to proceed in forma pauperis on appeal.

Because I am certifying petitioner's appeal as not having been taken in good faith, petitioner cannot proceed with his appeal without prepaying the \$455 filing fee unless the court of appeals gives him permission to do so. Pursuant to Fed. R. App. P. 24, petitioner has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of leave to proceed in forma pauperis on appeal. His motion must be accompanied by an affidavit as described in the first paragraph of Fed. R. App. P. 24(a), including a statement of issues that petitioner intends to present on appeal. Also, petitioner's motion must be accompanied by a copy of this order. Petitioner should be aware that these documents should be filed in addition to the notice of appeal he has previously filed. If petitioner does not file a motion requesting review of this order, the court of appeals likely will not address this court's denial of leave to proceed in forma pauperis on appeal. Instead, it will require petitioner to pay the entire \$455 filing fee before it considers his appeal. If petitioner fails to pay the fee within the deadline set, it is possible that the court of appeals will dismiss the appeal and order this court to arrange for collection of the fee from plaintiff's prison account.

ORDER

IT IS ORDERED that petitioner William G. Eaton's request for leave to proceed in forma pauperis on appeal, dkt. #15, is DENIED. I certify that petitioner's appeal is not taken in good faith. The clerk of court is directed to insure that petitioner's obligation to pay the \$455 fee for filing his appeal is reflected in the court's financial record.

Entered this 14th day of July, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge