

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

NATHAN GILLIS,

Petitioner,

v.

MICHAEL MEISNER,

Respondent.

ORDER

13-cv-195-bbc

On May 15, 2013, I dismissed Nathan Gillis's petition for a writ of habeas corpus under 28 U.S.C. § 2254 without prejudice for petitioner's failure to obtain the authorization required by 28 U.S.C. § 2244(b)(3)(A). Also in that order I denied petitioner's request for a certificate of appealability. Now, petitioner has filed a notice of appeal. Because petitioner has not paid the \$455 filing fee for his appeal, I construe his notice as a request 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).

To find that an appeal is in good faith, a court need find only that a reasonable person could suppose the appeal has some merit. Walker v. O'Brien, 216 F.3d 626, 631-32 (7th Cir. 2000). I find that petitioner is unable to meet this standard. Petitioner does not dispute that this was a successive petition over which this court lacked jurisdiction and petitioner has not offered any argument or evidence to the contrary. Accordingly, petitioner's request to proceed in forma pauperis on appeal will be denied.

Under 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, it is likely that the court of appeals 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.

ORDER

IT IS ORDERED that petitioner Nathan Gillis's request for leave to proceed in forma pauperis on appeal, dkt. #13, 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 21st day of May, 2013.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge