

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

MICHAEL SVEUM,

Petitioner,

ORDER

v.

00-C-563-C

JUDY P. SMITH, Warden, Oshkosh
Correctional Institution,

Respondent.

Michael Sveum seeks to appeal from this court's order entered June 15, 2005 denying his third motion to vacate the judgment entered December 14, 2000 dismissing his petition for a writ of habeas corpus. He requests leave to proceed in forma pauperis and for a certificate of appealability.

From the affidavit of indigency petitioner has submitted, I find that he cannot afford to prepay the costs of this appeal or post security therefor. However, because I conclude that his appeal is not brought in good faith, I am denying his request for leave to proceed in forma pauperis. The subject of the instant appeal differs in no material respects from a motion to reopen the judgment filed by petitioner on December 6, 2004. In an order entered December 16, 2004, I dismissed the December 6 motion, concluding that it was in effect a successive collateral attack for which petitioner had not obtained prior authorization to file from the court of appeals. On March 31, 2005, the court of appeals issued a decision

in which it agreed with my conclusion. Petitioner's insistence on filing repetitive motions and repetitive appeals founded on the same facts demonstrates that his appeal is not taken in good faith.

Petitioner is not entitled to a certificate of appealability. Reasonable jurists would not debate my conclusion that his third motion to reopen the judgment is an unauthorized successive petition.

ORDER

IT IS ORDERED:

1. Petitioner Michael Sveum's motion for leave to proceed in forma pauperis on appeal is DENIED.
2. Pursuant to 28 U.S.C. § 2253(c) and Fed. R. App. P. 22(b), petitioner's request for a certificate of appealability is DENIED.
3. If petitioner files any more challenges to his sentence, they will be retained by the court but not acted upon.

Entered this 23rd day of June, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge