

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

RAZZIE WATSON, SR.,

Petitioner,

MEMORANDUM

v.

03-C-309-C

MATTHEW FRANK, Secretary, Wisconsin
Department of Corrections,

Respondent.

On January 15, 2004, this court received a letter dated January 12, 2004 from petitioner Razzie Watson, Sr., in which he complains that prison officials have deprived him of access to his legal materials while he is in disciplinary segregation. It appears that this letter crossed in the mail with my order of January 13, 2004, in which I adopted the magistrate judge's report and recommendation and dismissed the petition with prejudice. That order and the subsequent judgment entered January 14, 2004, have disposed of the case in its entirety. Thus, it appears that the issues raised in petitioner's letter are, for the most part, moot. However, insofar as petitioner mentions that he intends to appeal any unfavorable decision, I will address that issue briefly.

Petitioner asks this court to send him copies of various form documents, including those pertaining to an appeal. However, this court does not utilize most of the forms that petitioner has requested. For example, there is no standard form entitled "Notice of Appeal"

or “certificate of appealability.” In order to file an appeal, petitioner need only file a document indicating that he seeks to appeal the judgment and that he is requesting the court to issue a certificate of appealability. Petitioner should also indicate that he seeks to proceed *in forma pauperis* on appeal. (Because this court has already found petitioner to be indigent, petitioner need not submit a new affidavit in support of his request for indigent status.) In his document, petitioner should indicate what issues he seeks to raise on appeal, keeping in mind that this court will not issue a certificate of appealability unless “the applicant has made a substantial showing of the denial of a constitutional right.” Walker v. O'Brien, 216 F.3d 626, 631-32 (7th Cir. 2000); see also 28 U.S.C. § 2253(c)(2). However, it is not necessary for petitioner to cite cases or make new legal arguments in order to prepare the notice of appeal and request for a certificate of appealability. The notice of appeal is not an opportunity for petitioner to re-argue his claims; rather, its function is merely to alert the court to the issues petitioner wants to raise on appeal and the reasons he thinks this court decided those issues wrongly.

A copy of Rule 4 of the Rules of Appellate Procedure is enclosed with this order. Although petitioner asserts that he does not have access while he is in disciplinary segregation to any of the orders issued by this court, he has not indicated how long he will be in disciplinary segregation. Under Rule 4, petitioner has 30 days from the date judgment was entered within which to file an appeal. I predict that petitioner will be released from segregation and his materials will be returned to him before that time. However, if

petitioner still does not have access to his legal materials as it gets closer to the deadline, he may request an extension pursuant to Rule 4(a)(5).

Three more matters must be mentioned. First, it appears that petitioner did not mail a copy of his January 12 letter to Attorney Mueller, counsel for respondent. In the future, this court will not act on submissions by petitioner that he has not served on respondent. Second, this court will not make copies of petitioner's documents and return them to him, as he requests. As this court has informed petitioner in the past, if he wants a stamped copy for his records, then he must either send an extra copy or a check or money order to cover the copying fee of 10 cents per page. Finally, if there is any truth to petitioner's allegation that prison officials placed him in segregation in retaliation for his filing of a civil rights complaint in the federal court for the District of Minnesota, petitioner should direct his concerns to that court.

Dated this 23rd day of January, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge