

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

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SEBASTIAN MOLINA,

Petitioner,

MEMORANDUM

v.

05-C-282-C

PHILLIP KINGSTON, Warden,  
Waupun Correctional Institution,

Respondent.

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On December 16, 2005, petitioner Sebastian Molina filed a letter in which he asks this court to reconsider its December 12, 2005 decision to deny him leave to proceed in forma pauperis on appeal and to appoint a lawyer to represent him. This court lacks jurisdiction to consider petitioner's requests because he has taken an appeal of his case. Once he has done that, all authority over the case shifts to the court of appeals; the district court cannot act. United States v. Turchen, 187 F.3d 735, 743 (7th Cir. 1999) (filing of notice of appeal confers jurisdiction on court of appeals and divests district court of jurisdiction to rule on aspects of case involved in appeal). If petitioner wishes to challenge this court's December 12 decision, he must follow the procedure set out in Fed. R. App. P. 24(a)(5) which provides,

A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of [the district court's order denying in forma pauperis status]. The motion must include a copy of the affidavit filed

in the district court [under Fed. R. App. P. 24(a)(1)] and the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party must include the affidavit prescribed by Rule 24(a)(1).

Because it appears that petitioner's letter may be construed as a motion pursuant to Fed. R. App. P. 24(a)(5), I have requested the clerk to forward it to the court of appeals for whatever action it deems appropriate.

Entered this 20th day of December, 2005.

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