

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

RICHARD CHAMBERS,

Petitioner,

v.

ORDER

WARDEN MARTINEZ,

06-C-336-S

Respondent.

On August 29, 2006 judgment was entered in the above entitled matter dismissing petitioner's petition for a writ of habeas corpus with prejudice. On October 12, 2006 petitioner filed a notice of appeal which the Court construes as a request to proceed in forma pauperis on appeal. He also filed a request for a certificate of appealability which will be denied as it is unnecessary in an appeal from a denial of a petition for a writ of habeas corpus under 28 U.S.C. § 2241.

____ In Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997) the United States Court of Appeals discussed the determination of whether an appeal is taken in bad faith as follows:

Frivolousness is an objective inquiry; "good faith" implies a subjective standard. But judges lack access to the plaintiff's mental processes. Thoughts must be inferred from acts. A plaintiff who has been told that the claim is foreclosed and then files a notice of appeal without offering any argument to undermine the district court's conclusion is acting in bad faith.

Petitioner was advised on August 29, 2006 that in any future proceedings he must offer argument to undermine this Court's conclusion that his petition must be dismissed. Petitioner does not present any reasons or argument to undermine the Court's conclusion that his petition should be dismissed for lack of jurisdiction. Accordingly, his request to proceed in forma pauperis on appeal will be denied.

ORDER

IT IS ORDERED that petitioner's request to proceed in forma pauperis on appeal is DENIED.

IT IS FURTHER ORDERED that petitioner's request for a certificate of appealability is DENIED as unnecessary.

Entered this 16th day of October, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge