

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

BILL P. MARQUARDT,

Petitioner,

v.

ORDER

DIRECTOR, MENDOTA MENTAL
HEALTH INSTITUTE,

06-C-684-S

Respondent.

On February 16, 2007 judgment was entered in the above entitled matter dismissing petitioner's petition for a writ of habeas corpus with prejudice. The Court received a notice of appeal and a request to proceed in forma pauperis from petitioner which the Court also construes as a request for a certificate of appealability.

A certificate of appealability may be issued only if the petitioner has shown the denial of a constitutional right. Petitioner has not shown the denial of a constitutional right. Accordingly, petitioner's request for a certificate of appealability will be denied.

____ 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 February 14, 2007 that in future proceedings he must offer reasons why his petition should not have been dismissed. He has not provided these reasons. Accordingly, the Court finds that petitioner's appeal is taken in bad faith, and his request to proceed in forma pauperis on appeal will be denied.

ORDER

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

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

Entered this 5th day of March, 2007..

BY THE COURT:
/s/
JOHN C. SHABAZ
District Judge