

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

STEVEN JOHNSON,

Petitioner,

ORDER

v.

08-cv-0545-slc

TOM DALBEC,
Douglas County Sheriff,

Respondent.

Steven Johnson has filed a motion for a certificate of appealability from this court's judgment and order entered September 22, 2008, which dismissed without prejudice his application for a writ of habeas corpus. I infer that petitioner also seeks leave to appeal in forma pauperis.

Because petitioner is a pre-trial detainee, his habeas petition is governed by the general grant of habeas authority found in 28 U.S.C. § 2241. Walker v. O'Brien, 216 F.3d 626, 633 (7th Cir. 2000). A petitioner need not obtain a certificate of appealability to appeal the denial of a habeas petition brought under § 2241. Id. at 638. However, petitioner cannot proceed in forma pauperis unless the court finds that he is bringing his appeal in good faith. 28 U.S.C. § 1915(a)(3). I am unable to make this finding. No reasonable person could suppose there is any merit to petitioner's seeking an appeal when

he has not exhausted his state court remedies or shown that extraordinary circumstances exist that would warrant a federal court disrupting a pending state criminal prosecution.

ORDER

IT IS ORDERED that petitioner's request for leave to proceed in forma pauperis on appeal is DENIED because I certify that his appeal is not taken in good faith. Petitioner's request for a certificate of appealability is DENIED as unnecessary. Petitioner may appeal without obtaining a certificate.

Entered this 4th day of November, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge