

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

DARRIN D. GROSSKOPF,

Petitioner,

v.

WILLIAM POLLARD, Warden,
Waupun Correctional Institution,

Respondent.

ORDER

11-cv-667-bbc

On February 29, 2012, I dismissed Darrin Grosskopf's petition for a writ of habeas corpus under 28 U.S.C. § 2254 as untimely. Also, in the February 29 order I denied petitioner's request for a certificate of appealability. Judgment was entered February 29, 2012. Now before the court is petitioner's notice of appeal and request for leave to proceed in forma pauperis on appeal. The request will be denied because I must certify that petitioner's appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3).

To find that an appeal is in good faith, a court need find only that a reasonable person could suppose the appeal has some merit. Walker v. O'Brien, 216 F.3d 626, 631-32 (7th Cir. 2000). I cannot certify that petitioner's appeal is taken in good faith. I denied his

petition as untimely, finding that he had failed to file his habeas petition within the statutory limitation period and did not identify any impediment that might excuse this failure. Having reviewed the order, I am convinced that reasonable jurists would not debate the conclusion I reached.

I am certifying petitioner's appeal as not having been taken in good faith, so he cannot proceed with his appeal without prepaying the \$455 filing fee unless the court of appeals gives him permission to do so. Under Fed. R. App. P. 24, petitioner has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of his request for leave to proceed in forma pauperis on appeal. With his motion, he must include an affidavit as described in the first paragraph of Fed. R. App. P. 24(a), with a statement of issues he intends to argue on appeal. Also, he must send along a copy of this order. Petitioner should be aware that he must file these documents in addition to the notice of appeal he has filed previously.

If petitioner does not file a motion requesting review of this order, the court of appeals might not address the denial of leave to proceed in forma pauperis on appeal. Instead, it may require petitioner to pay the entire \$455 filing fee before it considers his appeal. If petitioner does not pay the fee within the deadline set, it is possible that the court of appeals will dismiss the appeal.

ORDER

IT IS ORDERED that petitioner Darrin Grosskopf's motion for leave to proceed in forma pauperis on appeal is DENIED because I am certifying that his appeal is not taken in good faith. If petitioner wishes to appeal this decision, he must follow the procedure set out in Fed. R. App. P. 24(a)(5). The clerk of court is requested to insure that petitioner's obligation to pay the \$455 filing fee for the appeal is reflected in this court's financial records.

Entered this 16th day of April, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge