

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

WILLIE MAPP,

Petitioner,

v.

STATE OF OHIO,

Respondent.

CASE NO. 2:12-CV-1039

JUDGE EDMUND A. SARGUS, JR.

MAGISTRATE JUDGE KEMP

OPINION AND ORDER

On August 20, 2013, final judgment was entered dismissing the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter is before the Court on Petitioner's September 3, 2013, *Notice of Appeal*, which this Court construes as a request for a certificate of appealability. For the reasons that follow, Petitioner's request for a certificate of appealability is **DENIED**.

Petitioner asserts various claims for relief, the substance of which is not entirely clear. On August 20, 2013, however, final judgment was entered dismissing all of Petitioner's claims as procedurally defaulted. The Ohio Supreme Court dismissed Petitioner's direct appeal because he failed to file a memorandum in support of jurisdiction. The Ohio Court of Appeals denied Petitioner's application to reopen the appeal pursuant to Ohio Appellate Rule 26(B) as untimely. Petitioner failed to establish cause for these procedural defaults. This Court therefore dismissed all of his claims as procedurally defaulted.

Where a claim has been dismissed on procedural grounds, a certificate of appealability shall issue where jurists of reason would find it debatable whether the Court was correct in its procedural ruling that petitioner waived his claims of error, and whether petitioner has stated a


viable constitutional claim. *Slack v. McDaniel*, 529 U.S. 529 U.S. 473, 484–85. Both of these showings must be made before a court of appeals will entertain the appeal. *Id.*

This Court is not persuaded that reasonable jurists would debate whether the Court correctly dismissed Petitioner's claims as procedurally defaulted. Petitioner's request for a certificate of appealability therefore is **DENIED**.

The Court notes that Petitioner has neither paid the \$455.00 filing fee for his appeal, nor has he filed a request to proceed *in forma pauperis* on appeal. Under Rule 24(a) of the Federal Rules of Appellate Procedure, a party seeking to proceed *in forma pauperis* on appeal must move to do so in the district court. A party may proceed *in forma pauperis* on appeal without district court approval if the party proceeded *in forma pauperis* in the district court, and the district court certifies that the party can take an appeal in good faith. Fed. R.App. P. 24(a)(3).

Here, Petitioner was not previously granted pauper status. Moreover, the Court certifies pursuant to 28 U.S.C. § 1915(a) (3),¹ that the appeal is not in good faith.

IT IS SO ORDERED.


EDMUND A. SARGUS, JR.
United States District Judge

¹ 28 U.S.C. § 1915(a)(3) provides:

A party who was permitted to proceed *in forma pauperis* in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal *in forma pauperis* without further authorization, unless:

(A) the district court-before or after the notice of appeal is filed-certifies that the appeal is not taken in good faith[.]