

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION**

CHARLES LIVINGSTON  
*ADC #098807*

PETITIONER

V.

CASE NO. 4:23-cv-00611-BRW-JTK

DEXTER PAYNE  
*Director, ADC*

RESPONDENT

**ORDER**

Pending before the Court is Petitioner Charles Livingston's Motion for Leave to Proceed *in forma pauperis*. (Doc. No. 1) Aside from his motion, the only other docketed item is a Notice of Appeal to the Eighth Circuit regarding his state conviction of second-degree sexual assault. (Doc. No. 2) It appears that Mr. Livingston is requesting to proceed without prepayment of fees in his appellate case, which is a determination to be made by the appropriate appellate court. However, this Court is unsure as to Mr. Livingston's intention because the case is styled as a habeas corpus action despite the absence of a petition under 28 U.S.C. § 2254.

Due to the uncertainty and confusion, the Court directs Mr. Livingston to complete a petition under 28 U.S.C. § 2254—the equivalent of form AO 241—if he wishes to pursue a habeas case. Along with his petition, he should either file an updated *in forma pauperis* motion or pay the \$5.00 filing fee within 30 days of this Order.

Failure to comply with this Order will result in dismissal of this action under Local Rule 5.5(c)(2) and the Federal Rules of Civil Procedure. The Clerk of Court is hereby directed to immediately forward to Mr. Livingston a copy of this Order, form AO 241, and an *in forma pauperis* application. Accordingly, Mr. Livingston's currently pending motion (Doc. No. 1) is denied as moot.

IT IS SO ORDERED this 6th day of July, 2023.

A handwritten signature in black ink, appearing to read 'J. Kearney', written in a cursive style.

---

JEROME T. KEARNEY  
UNITED STATES MAGISTRATE JUDGE