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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

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ROBERT CARSWELL,	:	
	:	
Petitioner,	:	
	:	**CASE NO.**
v.	:	**5:10-CV-487 (CAR)**
	:	
Warden BARBARA WALRATH,	:	
	:	
Respondent.	:	

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ORDER

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Currently before the Court is Petitioner Robert Carswell's Motion for Certificate of Appealability ("COA") [Doc. 26] from the Court's March 15, 2012 Order, which accepted the United States Magistrate Judge's recommendation that Petitioner's 28 U.S.C. § 2241 petition be dismissed as moot. Petitioner also filed a Motion for Leave to Appeal *in forma pauperis* [Doc. 27].

"A [COA] may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(1). To merit a COA, Petitioner must show that reasonable jurists would find debatable both (1) the merits of the underlying claim and (2) the procedural issues he seeks to raise. 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473, 483-84 (2000) (explaining how to satisfy this showing) (citations omitted). Petitioner has not made such a showing. Therefore, his application for a COA is **DENIED.**

Federal law generally permits the commencement of a criminal appeal without prepayment of fees "unless the trial court certifies in writing that it is not taken in good faith." See 28 U.S.C .A. § 1915(a). Here, Petitioner seeks to appeal this Court's dismissal of his 28 U.S.C. § 2241 petition. In its Order, the Court adopted the Magistrate Judge's finding that the petition was moot because Petitioner is no longer in custody. Now, Petitioner has merely filed a request to appeal *in forma pauperis* without claiming any entitlement to redress or stating the issues he intends to present on appeal. Therefore, the Court finds that the appeal is frivolous and not taken in good faith. Petitioner's Motion for Leave to Appeal *in forma pauperis* [Doc. 27] is **DENIED.**

SO ORDERED, this 20th day of April, 2012.

S/ C. Ashley Royal
C. ASHLEY ROYAL, CHIEF JUDGE
UNITED STATES DISTRICT COURT

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