

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

TIMOTHY DAVIS, )  
)  
Petitioner, )  
)  
v. ) CV 116-207  
)  
GREGORY MCLAUGHLIN )  
)  
Respondent. )

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**ORDER**

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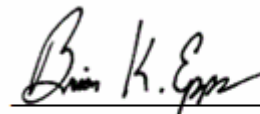
Petitioner, currently incarcerated at Macon State Prison in Oglethorpe, Georgia, filed this § 2254 petition along with an application to proceed *in forma pauperis* (“IFP”) in the Northern District of Georgia on December 1, 2016. (Doc. nos. 1, 2.) Petitioner seeks to challenge the Superior Court of Macon County’s Order of November 4, 2016 in 2014-CV-130 denying his petition for a writ of habeas. (Doc. no. 1, p. 1.) On December 14, 2016, Judge Alan J. Baverman transferred the case to this Court as Petitioner was convicted in Richmond County. (Doc. no. 3.)

It appears from both Petitioner’s § 2254 petition and IFP application Petitioner did not intend to file a federal habeas petition but rather an Application for a Certificate of Probable Cause to Appeal with the Supreme Court of Georgia. Indeed, Petitioner labels his petition “In the Supreme Court of Georgia” and his IFP application “Georgia Supreme Court,” and he titles his petition “Application for a Certificate of Probable Cause to Appeal.” (See doc. nos. 1, 2.) As his relief, he asks the “Supreme Court of Georgia [to] grant his

Application for Certificate of Probable Cause to Appeal.” Thus, it does not appear Petitioner is seeking federal habeas relief at this time.

Accordingly, the Court **ORDERS** Petitioner to notify the Court within twenty-one days whether he intended to file a federal habeas petition or rather filed an application for a certificate of probable cause to appeal in the wrong court. If Petitioner did intend to file an application for a certificate of probable cause to appeal, then he may voluntarily dismiss the present petition without prejudice and seek relief in the proper court. If no response is timely received from Petitioner, the Court will presume he desires to have this case voluntarily dismissed and will recommend dismissal of this petition without prejudice.

SO ORDERED this 15th day of December, 2016, at Augusta, Georgia.



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BRIAN K. EPPS  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF GEORGIA