

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FRANK JOSEPH SCHWINDLER,)
)
 Petitioner,)
)
 v.)
)
 P.O. AHMED HOLT, Warden,)
)
 Respondent.)

CV416-189

ORDER

Frank Joseph Schwindler has petitioned this Court for relief from his state-court judgment, pursuant to 28 U.S.C. § 2254. *See* doc. 1. After a somewhat convoluted procedural history, the case returned to this Court from the United States District Court for the Northern District of Georgia. Doc. 45. Given the pendency of state *habeas* proceedings, this Court held the petition in abeyance. *See* doc. 49 (Report and Recommendation), *adopted* doc. 50. After the case was stayed, petitioner filed motions to argue the propriety of the Northern District’s transfer. *See* doc. 51. His motion was denied by the District Judge. Doc. 54. He has filed a notice of his appeal of that order to the United States Court of Appeals for the Eleventh Circuit. Doc. 56.

When he filed his notice of appeal, Schwindler also filed a motion requesting an extension to a deadline imposed when the Court held his petition in abeyance. Doc. 55. The Court directed him to file an amended petition within thirty days of the conclusion of his state proceeding. See doc. 54 at 4. His present motion indicates that the Georgia Supreme Court denied him a certificate of probable cause to appeal the denial of his habeas petition. See doc. 55 at 2. Given the pendency of his appeal to the Eleventh Circuit, he requests either that this case be held “in abeyance until such time as the appellate court considers his appeal,” or a thirty-day extension.¹

Normally the filing of a notice of appeal is an event of jurisdictional significance; it divests the district court of jurisdiction over a case and vests jurisdiction in the court of appeals. *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). That transfer, however, may avoid aspects of the case not involved in the appeal. See *id.* Given Schwindler’s express goal of having his petition considered in the

¹ It is not clear when the Georgia Supreme Court denied him a certificate of probable cause, terminating his state proceeding and starting the time for him to file an amended petition. Thus, it is not clear when he proposes to submit his amended petition.

Northern District, the Court will **STAY** all deadlines in this case until his appeal is concluded. If the Court of Appeals determines that Schwindler's petition is properly before this Court, he must file his amended petition within thirty days of the disposition of his appeal.

SO ORDERED, this 30th day of April, 2019.

A handwritten signature in cursive script that reads "Christopher L. Ray". The signature is written in black ink and is positioned above a horizontal line.

CHRISTOPHER L. RAY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA