

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF ILLINOIS**

ANTHONY GAY, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 YOLANDA JOHNSON, Warden, )  
 )  
 Respondent. )

Case No. 08-1332

**ORDER**

This matter is now before the Court on a Petition for a Certificate of Appealability by Petitioner, Anthony Gay (“Gay”), from the denial of his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. For the reasons set forth below, the Court declines to issue a Certificate of Appealability.

**DISCUSSION**

As amended by the Antiterrorism and Effective Death Penalty Act of 1996, 28 U.S.C. § 2253 now requires a certificate of appealability in cases arising under 28 U.S.C. § 2254. A certificate may only issue if the applicant makes a substantial showing of the denial of a constitutional right, and any certificate issued must specify what claim(s) merit appellate review.

In considering whether a certificate of appealability should issue, the Court notes that in denying Gay’s § 2254 petition, the Court found that Gay’s petition amounted to nothing more than his asking the Court to ignore the record and act on his bald disagreement with the state court’s findings. Given that he has presented no claims that

could be debatable among jurists of reason, Gay has failed to make a substantial showing of the denial of a constitutional right. Having found no issue in this proceeding which warrants appellate review, this Court cannot in good faith issue a certificate of appealability for his § 2254 Petition.

Gay also requests to proceed in forma pauperis on appeal. Title 28 U.S.C. § 1915(a)(3) provides that “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” In the case at bar, Gay’s petition is so clearly lacking in any substantive merit that pursuit of an appeal would be more than frivolous. Accordingly, the Court cannot find that this appeal is being taken in good faith. His Motion to Proceed In Forma Pauperis on Appeal is therefore DENIED.

### **CONCLUSION**

For the reasons set forth herein, the Court declines to issue a certificate of appealability. Gay’s Petition for Issuance of a Certificate of Appealability [#20] is DENIED, and his Motion to Proceed In Forma Pauperis on Appeal [#19] is also DENIED.

ENTERED this 8<sup>th</sup> day of July, 2009.

s/ Michael M. Mihm  
Michael M. Mihm  
United States District Judge