

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

DAVID BOOKER,)	
)	
Petitioner,)	
)	
)	No. 07-3117
)	
DONALD GAETZ, Warden,)	
)	
Respondent.)	

OPINION

JEANNE E. SCOTT, U.S. District Judge:

This matter comes before the Court on Petitioner David Booker’s Application to Proceed in Forma Pauperis to the U.S. Courts of Appeals, Seventh Circuit with Supporting Documentation and Inmate Transaction Statement (d/e 28) (IFP Application), Application for Certificate of Appealability (30), and Motion for Appointment of Counsel for Appeal to the U.S. Court of Appeal, for Seventh Circuit (d/e 31). The IFP Application is allowed. Petitioner’s request for appointment of counsel on appeal will be forwarded to the Court of Appeals for its consideration.

The Application for Certificate of Appealability is denied. This Court dismissed the Petition (d/e 3) because the Petitioner was not entitled to

habeas relief. Opinion entered March 24, 2009 (d/e 22), at 14. This Court may only issue a certificate of appealability if a petitioner makes a substantial showing of a violation of a constitutional right. 28 U.S.C. 2253(c); Fed. R. App. P. 22(b). When a habeas petition is denied, a certificate of appealability is appropriate only if a petitioner shows that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right. Slack v. McDaniel, 529 U.S. 473, 484 (2000). A reasonable jurist would not find debatable this Court's conclusion that Petitioner does not have a claim of a denial of a constitutional right that would entitle him to habeas relief. The Court therefore denies his request for a certificate of appealability.

THEREFORE, Petitioner David Booker's Application to Proceed in Forma Pauperis to the U.S. Courts of Appeals, Seventh Circuit with Supporting Documentation and Inmate Transaction Statement (d/e 28) is ALLOWED; and Petitioner's Application for Certificate of Appealability (30) is DENIED. The Clerk is directed to forward the Motion for Appointment of Counsel for Appeal to the U.S. Court of Appeal, for Seventh Circuit (d/e 31) to the Court of Appeals for its consideration.

IT IS THEREFORE SO ORDERED.

ENTER: May 27, 2009

FOR THE COURT:

s/ Jeanne E. Scott
JEANNE E. SCOTT
UNITED STATES DISTRICT JUDGE