

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JAMES PAUL DUNCAN,)	
)	
Plaintiff,)	
)	CIVIL NO. 02-cv-345-MJR
vs.)	
)	APPEAL NO. 08-3627
DONALD D. GAERTZ, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

REAGAN, District Judge:

This case was closed for six years, and then Plaintiff filed a motion challenging the continued garnishment of his account to pay the \$150 filing fee pursuant to 28 U.S.C. § 1915(b). That motion was denied (Doc. 6), and now Plaintiff has filed a notice of appeal, accompanied by a motion for issuance of a certificate of appealability (Doc. 7).

Plaintiff’s civil rights action is neither a proceeding under section § 2255, nor is it a habeas corpus proceeding in which the detention complained of arises out of process issued by a state court. Consequently, no certificate of appealability is necessary for him to perfect his appeal. FED.R.APP.P. 22(b); 28 U.S.C. § 2253(c). Accordingly, the instant motion is **DENIED** as **MOOT**.

IT IS SO ORDERED.

DATED this 20th day of October, 2008.

s/ Michael J. Reagan

MICHAEL J. REAGAN
United States District Judge