

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

JESSE DUDLEY McCLOUD, ,)	
)	
Petitioner/Defendant,)	
)	CIVIL NO. 06-46-GPM
vs.)	
)	CRIMINAL NO. 04-30071-01-GPM
UNITED STATES OF AMERICA,)	
)	
Respondent/Plaintiff.)	

MEMORANDUM AND ORDER

MURPHY, District Judge:

This matter is before the Court on Petitioner’s motion to compel (Doc. 23), in which Petitioner seeks an order from this Court directing “the Clerk to forward the record in this case to the Court of Appeals and . . . [to] transfer jurisdiction accordingly.”

Petitioner filed a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (Doc. 1). On May 1, 2006, this Court dismissed the action after a preliminary review (Doc. 3). Later that day, however, the Clerk of Court docketed Petitioner’s motion for leave to supplement his § 2255 motion (Doc. 5). Shortly thereafter, Petitioner filed a motion to reconsider the dismissal of his § 2255 action based on his supplement (Doc. 6). This Court granted Petitioner’s motion to supplement his § 2255 action, but denied his motion for reconsideration (Doc. 7).

Petitioner filed a notice of appeal (Doc. 8). His motions to proceed *in forma pauperis* on appeal were denied by both this Court and the Seventh Circuit Court of Appeals (Docs. 18 and 21); accordingly, Petitioner paid the \$455 appellate filing fee (*see* Doc. 22). Both this Court and the Seventh Circuit Court of Appeals, however, denied Petitioner a certificate of appealability (Docs.

14 and 21).

Pursuant to 28 U.S.C. § 2255(c)(1)(B), “an appeal may not be taken to the court of appeals from ... the final order in a proceeding under section 2255” unless a certificate of appealability is issued by this Court or the Court of Appeals. As noted above, Petitioner was denied a certificate of appealability by both this Court and the Court of Appeals. Therefore, there is no appeal currently pending in Petitioner’s case. Consequently, Petitioner’s motion to compel (Doc. 23) is **DENIED**.

IT IS SO ORDERED.

DATED: 09/30/08

s/ G. Patrick Murphy _____
G. Patrick Murphy
United States District Judge