

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

<p><b>DWAYNE SCRUGGS,</b></p> <p style="text-align: center;"><b>Petitioner,</b></p> <p><b>vs.</b></p> <p><b>UNITED STATES OF AMERICA,</b></p> <p style="text-align: center;"><b>Respondent.</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>Case No. 3:13-CV-1135-NJR</b></p>
---	---	---

**NOTICE**

**ROSENSTENGEL, District Judge:**

If Petitioner wishes to appeal this denial of his 2255 motion, he may file a notice of appeal with this court within 60 days after the date the Order was entered. FED. R. APP. P. 4(a)(1)(B). The Court may extend the time to file a notice of appeal, but only if “a party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires; and...that party shows excusable neglect or good cause.” FED. R. APP. P. 4(a)(5).

A motion for leave to appeal *in forma pauperis* should set forth the issues Petitioner plans to present on appeal. See FED. R. APP. P. 24(a)(1)(C). If Petitioner does choose to appeal, and is allowed to proceed *in forma pauperis*, he will be liable for a portion of the \$505.00 appellate filing fee (the amount to be determined based on his prison trust fund account records for the past six months) irrespective of the outcome of the appeal. See FED. R. APP. P. 3(e); 28 U.S.C. § 1915(e)(2); *Ammons v. Gerlinger*, 547 F.3d 724, 725-26 (7th Cir. 2008); *Sloan v. Lesza*, 181 F.3d 857, 858-59 (7th Cir. 1999); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

Petitioner is further advised that a motion filed pursuant to Federal Rule of Civil Procedure 59(e) must be filed no later than 28 days after the entry of the judgment—a deadline that cannot be extended. A proper and timely Rule 59(e) motion *may* toll the 60-day appeal deadline, but a motion for relief from a final judgment, order, or proceeding does not toll the deadline for an appeal.

Petitioner cannot take an appeal unless a circuit justice or judge issues a certificate of appealability under 28 U.S.C. § 2253(c). Here, the undersigned District Judge has already declined to issue a certificate of appealability. Thus, Petitioner must seek a certificate of appealability from the Court of Appeals under Federal Rule of Appellate Procedure 22.

**IT IS SO ORDERED.**

**DATED: March 7, 2017**

A handwritten signature in cursive script that reads "Nancy J. Rosenstengel". The signature is written in black ink and is positioned above a horizontal line.

---

**NANCY J. ROSENSTENGEL**  
**United States District Judge**