

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

**MARCELL STOKES,**

**Petitioner,**

**vs.**

**No. 15-cv-00967-DRH-CJP**

**KIMBERLY BUTLER,**

**Respondent.**

**MEMORANDUM and ORDER**

**HERNDON, District Judge:**

Pending before the Court is Marcell Stokes' ("petitioner") motion to proceed in *forma pauperis* on appeal (doc. 35) and motion for certificate of appealability (doc. 33). On January 11, 2018, the Court denied and dismissed petitioner's 28 U.S.C. § 2254 petition with prejudice and declined to issue a certificate of appealability (doc. 31). The Clerk of the Court entered judgment (doc. 32). On January 25, 2018, petitioner filed a notice of appeal and the aforementioned motions. Based on the following, the Court **DENIES** the motion to proceed in *forma pauperis* on appeal (Doc. 35) and **DENIES as moot** the motion for certificate of appealability.

According to 28 U.S.C. § 1915(a)(3), "[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." *Id.* To determine that an appeal is taken in good faith, the Court "need only find that a reasonable person could suppose that the appeal has some merit." *Walker v.*

*O'Brien*, 216 F.3d 626, 632 (7th Cir. 2000) (citing *Lee v. Clinton*, 209 F.3d 1025, 026 (7th Cir. 2000)). No reasonable person could reach the conclusion that the appeal is taken in good faith as the Court found one of petitioner's claims meritless and found several of his claims to be procedurally defaulted.

**IT IS HEREBY ORDERED** that petitioner's motion for leave to proceed in *forma pauperis* on appeal (doc. 35) is **DENIED**. Petitioner Stokes shall tender the appellate filing and docketing fee of \$505.00 to the Clerk of the Court in this District within **THIRTY** (30) days of the date of the entry of this Order or he may reapply with the Seventh Circuit Court of Appeals for leave to proceed in *forma pauperis* on appeal. Lastly, the Court **DENIES as moot** the motion for certificate of appealability (doc. 33) as the Court previously declined the certificate.

**IT IS SO ORDERED.**

*David Herndon*



Judge Herndon

2018.01.26

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**United States District Judge**