

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

<b>DIAMOND LANEIL BARNES,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 16-CV-798-SMY</b>
	)	
<b>JEFF HUTCHINSON, et al,</b>	)	
	)	
<b>Respondents.</b>	)	

**ORDER**

**YANDLE, District Judge:**

In July 2016, Barnes filed a habeas petition challenging his sentence under 28 U.S.C. § 2254. After the issues were fully briefed and considered, the Court denied Barnes' Petition as untimely and dismissed this case in April 2017 (Docs. 29, 35). Barnes filed a Notice of Appeal on June 23, 2017 (Doc. 43). The Seventh Circuit Court of Appeals issued its Mandate in January 2018, dismissing Barnes' appeal on the merits, finding that his Petition was "plainly untimely" (Doc. 66-1, p. 1). Barnes then filed a Motion to Re-Open Judgment (Doc. 90). This Court denied that motion on February 8, 2023 (Doc. 93). Now before the Court is Barnes' Motion for Leave to Appeal *in Forma Pauperis* ("IFP") (Doc. 100).

A motion for leave to appeal IFP in a criminal case is governed by the Criminal Justice Act, 18 U.S.C. § 3006A. The only inquiry that is relevant is a defendant's financial ability to retain counsel. *United States v. Dunham*, 922 F.3d 847 (7th Cir. 2019) (Wood, C.J., in chambers). Barnes has provided necessary details regarding his financial condition, from which the Court finds that he is indigent and unable to retain counsel (Doc. 100). Accordingly, his Motion for Leave to Proceed on Appeal IFP is **GRANTED**.

**IT IS SO ORDERED.**

**DATE: May 19, 2023**



*Staci M. Yandle*

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**STACI M. YANDLE**  
**United States District Judge**