

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

ROY AUSTIN SMITH,

Plaintiff,

vs.

DAWN BUSS, *et al.*,

Defendants.

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Cause No. 3:07-CV-0207 PS

**OPINION AND ORDER**

Roy Austin Smith , a *pro se* prisoner, filed two motions seeking to withdraw the Clerk's record so that he can prepare his appeal in 09-1980.

When the party withdrawing the record is incarcerated, the clerk who has physical custody of the record, on order of this court, will send the record to the warden of the institution with the request that the record be made available to the party under supervised conditions and be returned to the respective clerk before a specified date.

7TH CIR. R. 11(d) (emphasis added). This rule requires that an order to release the record to a prisoner be issued by the Circuit Court. Because this case is on appeal, this Court lacks jurisdiction to rule on this motion. Therefore, to the extent that he seeks relief from this Court, the motions (DE 53 and DE 55) are **DENIED**. The Clerk is **DIRECTED** to forward a copy of the motion to the Seventh Circuit.

**SO ORDERED.**

ENTERED: July 21, 2009

/s Philip P. Simon  
Philip P. Simon, Judge  
United States District Court