

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

CHRISTOPHER LEAHY,

Petitioner,

v.

WARDEN,

Respondent.

CAUSE NO. 3:23-CV-868-TLS-JPK

OPINION AND ORDER

Christopher Leahy, a prisoner without a lawyer, filed a habeas corpus petition [ECF No. 1] challenging the disciplinary decision (MCF-23-5-2045) at the Miami Correctional Facility in which a disciplinary hearing officer found him guilty of possessing a cellular device in violation of Indiana Department of Correction Offense 121. Following a hearing, he was sanctioned with a demotion in credit class, but the sanction was suspended and has not been imposed. Pursuant to Section 2254 Habeas Corpus Rule 4, the Court must dismiss the petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.”

“[A] habeas corpus petition must attack the fact or duration of one’s sentence; if it does not, it does not state a proper basis for relief under § 2254.” *Washington v. Smith*, 564 F.3d 1350, 1351 (7th Cir. 2009). While Leahy’s sanctions included a demotion in credit class, that sanction was suspended and has not been imposed, so the disciplinary proceedings have not increased the duration of his sentence. Because Leahy’s claims do not relate to the fact or duration of his sentence, the Court cannot grant him habeas relief.

If Leahy wants to appeal this decision, he does not need a certificate of appealability because he is challenging a prison disciplinary proceeding. *See Evans v. Circuit Court*, 569 F.3d 665, 666 (7th Cir. 2009). However, he may not proceed in forma pauperis on appeal because the Court finds pursuant to 28 U.S.C. § 1915(a)(3) that an appeal in this case could not be taken in good faith.

For these reasons, the Court hereby:

- (1) DENIES the habeas corpus petition [ECF No. 1];
- (2) DIRECTS the Clerk of the Court to enter judgment and close this case; and
- (3) DENIES Christopher L. Leahy leave to proceed in forma pauperis on appeal.

SO ORDERED on September 29, 2023.

s/ Theresa L. Springmann
JUDGE THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT