

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT PADUCAH
CIVIL ACTION NO. 5:07CV-P28-R**

JOEY HART

PETITIONER/APPELLANT

v.

PATTI R. WEBB, WARDEN

RESPONDENT/APPELLEE

MEMORANDUM AND ORDER

This matter is before the Court on Petitioner/Appellant's motion for certificate of appealability and motion to proceed on appeal *in forma pauperis*.

Because the Court already denied a certificate of appealability in its August 26, 2008, Order denying Petitioner's motion to alter or amend (DN 18), **IT IS ORDERED** that the motion for certificate of appealability (DN 21) is **TRANSFERRED** to the Sixth Circuit Court of Appeals for consideration.

Those same reasons that caused the Court to deny the motion to alter or amend and deny a certificate of appealability also compel the Court to certify that the appeal is frivolous and not taken in good faith. *See* 28 U.S.C. § 1915(a)(3); *Coppedge v. United States*, 369 U.S. 438, 445 (1962) (explaining that good faith is demonstrated when a petitioner "seeks appellate review of any issue not frivolous"). Accordingly, **IT IS FURTHER ORDERED** that the motion to proceed on appeal *in forma pauperis* (DN 19) is **DENIED**.

Within **30 days** of entry of this Order, Petitioner/Appellant must either **pay the \$455.00** appellate filing fee to the Clerk of the District Court or **file a motion** to proceed *in forma pauperis* in the United States Court of Appeals for the Sixth Circuit in accordance with Fed. R. App. P. 24(a). *See Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997). Should Petitioner/

Appellant decide to pay the full \$455.00 appellate filing fee, payment must be made payable to **Clerk, U.S. District Court** and sent to the following address:

United States District Court
Western District of Kentucky
106 Gene Snyder Courthouse
601 West Broadway
Louisville, Kentucky 40202

Failure either to pay the \$455.00 filing fee or to file an application to proceed on appeal *in forma pauperis* with the United States Court of Appeals for the Sixth Circuit within 30 days **may result in dismissal of the appeal.**

Date:

cc: Petitioner, *pro se*
Respondent
Kentucky Attorney General, Office of Criminal Appeals, 1024 Capital Center Drive, Frankfort, KY 40601
Clerk, Sixth Circuit Court of Appeals

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