

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

DERRICK CARTER (#337492)

VERSUS

CIVIL ACTION

CORNEL HUBERT, ET AL

NUMBER 07-614-FJP-DLD

**ORDER REGARDING MOTION FOR CERTIFICATE OF APPEALABILITY  
AND MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL**

Before the court is the plaintiff's Notice of Appeal, Application for a Certificate of Appealability and Motion to Proceed on Appeal as a Pauperis While on Appeal. Record document number 169.

In a habeas proceeding the applicant cannot take an appeal to the court of appeals unless a circuit justice or a circuit or district judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1); Fed.R.App.P. 22(b)(1). A certificate of appealability need not issue to appeal the judgment in a civil rights suit.

IT IS ORDERED that the plaintiff's motion for the issuance of a certificate of appealability is denied as unnecessary.

IT IS FURTHER ORDERED that the application for leave to proceed in forma pauperis on appeal pursuant to 28 U.S.C. § 1915 is DENIED for the following reasons:

(1) The applicant has not complied with the requirements of 28 U.S.C. § 1915(a)(1) or (a)(2) by failing to provide a certified copy of the trust fund account statement for the six month period immediately preceding the filing of the notice of appeal; and,

(2) Pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), for the reasons set forth in the magistrate judge's report, the court certifies that the appeal is not taken in good faith.

Baton Rouge, Louisiana, March 14, 2011.



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FRANK J. POLOZOLA  
UNITED STATES DISTRICT JUDGE