

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

R.H. MANDEVILLE,)	
Petitioner,)	
)	
v.)	C.A. No. 05-11969-MLW
)	
MICHAEL A. THOMPSON,)	
Superintendent,)	
Respondent.)	

MEMORANDUM AND ORDER

WOLF, D.J.

June 21, 2014

I. CERTIFICATE OF APPEALABILITY

On March 31, 2014, the court allowed petitioner Rae Herman Mandeville's request to reopen his case, denied his petition for a writ of habeas corpus, and denied him a certificate of appealability for all claims. See Mar. 31, 2014 Memo. & Order at 28. On April 23, 2014, Mandeville appealed this decision to the United States Court of Appeals for the First Circuit, which ordered him to file a motion for a certificate of appealability in the First Circuit by May 16, 2014. See Order of Court, Mandeville v. Thompson, No. 14-1459 (1st Cir. May 2, 2014).

Mandeville evidently misconstrued the First Circuit's order, and on May 20, 2014, Mandeville filed a motion for a certificate of appealability in this court. For the reasons this court explained in the March 31, 2014 Memorandum and Order, the court did "not find that 'reasonable jurists could debate whether . . . the petition should have been resolved in a different manner or that the issues presented were "adequate to deserve encouragement to proceed

further,"' Mar. 31, 2014 Memo. & Order at 27 (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), and therefore denied a certificate of appealability for all claims.

Accordingly, Mandeville's new motion for a certificate of appealability is being denied as moot. However, pursuant to Federal Rule of Appellate Procedure 22, "[i]f the district judge has denied the certificate [of appealability], the applicant may request a circuit judge to issue it."

II. MOTION TO PROCEED IN FORMA PAUPERIS

On May 15, 2014, Mandeville sent a letter to the First Circuit, expressing his desire to proceed in forma pauperis. On May 23, 2014, the First Circuit construed that letter as a motion for an extension of time to pay his filing fees or to file a motion to proceed in forma pauperis, forwarded to Mandeville the forms necessary to file such a motion, and directed him to file his motion in the district court. See Order of Court, Mandeville, No. 14-1459 (1st Cir. May 23, 2014). Again misconstruing the First Circuit's order, Mandeville filed his motion to proceed in forma pauperis with the First Circuit, which transmitted the motion to this court. See Order of Court, Mandeville, No. 14-1459 (1st Cir. June 17, 2014).

Applications to appeal in forma pauperis are governed by 28 U.S.C. §1915 and Federal Rule of Appellate Procedure 24. In addition to showing an inability to pay the applicable filing fee,

